

1 HB446  
2 116922-1  
3 By Representatives Wood, Laird and Bridges  
4 RFD: Government Appropriations  
5 First Read: 26-JAN-10

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8 SYNOPSIS: This bill would create the Alabama  
9 Firefighters Annuity and Benefit Fund for paid and  
10 volunteer firefighters. Participation would be  
11 voluntary and in addition to any other benefit  
12 provided by law.

13 The bill would provide for a board of  
14 commissioners to administer the act and the fund  
15 created by the act. Assets in the fund would be  
16 invested and reinvested by the Employees'  
17 Retirement System of Alabama.

18 The bill would provide for qualified  
19 service, the process for applying for and receiving  
20 benefits, the management of the fund, refunds for  
21 members who leave the fund, disability and death  
22 benefits, voluntary fees to finance the fund,  
23 annual audits and reports of the fund, and  
24 administrative duties of the board.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 To create the Alabama Firefighters Annuity and  
4 Benefit Fund for paid and volunteer firefighters; to provide  
5 for a board of commissioners to administer the act and the  
6 fund created by the act; to provide that assets in the fund  
7 shall be invested and reinvested by the Employees' Retirement  
8 System (ERS) of Alabama for a reasonable fee in accordance  
9 with ERS administrative policies; to provide for qualified  
10 service, the process for applying for and receiving benefits,  
11 refunds for members who leave the fund, disability and death  
12 benefits, voluntary fees to finance the fund, annual audits  
13 and reports of the fund, and administrative duties of the  
14 board.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. When used in this act, the following  
17 words and phrases shall have the following meanings,  
18 respectively, unless the context clearly indicates otherwise:

19 (1) BOARD. The board of commissioners of the fund  
20 and any successors thereto.

21 (2) ERS. The Employees' Retirement System of  
22 Alabama.

23 (3) EXECUTIVE DIRECTOR. The executive director of  
24 the board.

25 (4) FIREFIGHTER. Any firefighter as certified by the  
26 Alabama Firefighters Personnel Standards and Education  
27 Commission. The term also includes any volunteer firefighter

1 who is a member of a certified volunteer fire department under  
2 Section 9-3-17, Code of Alabama 1975.

3 (5) FUND. The Firefighters Annuity and Benefit Fund  
4 created in this act.

5 (6) MEMBER. Any firefighter who is a member of the  
6 fund and who is in good standing by virtue of having paid all  
7 sums required by this act.

8 (7) MEMBERSHIP SERVICE. The period of employment of  
9 a member as a firefighter from the date he or she becomes a  
10 member.

11 (8) MONTH. A period of 30 days.

12 (9) PRIOR SERVICE. The period of employment of a  
13 member as a firefighter from the time of initial employment as  
14 a firefighter to October 1, 2010.

15 (10) QUALIFIED SERVICE. The prior service plus  
16 membership service of a member.

17 (11) YEAR. A period of 365 days. The last year of  
18 employment as a firefighter when over six months of membership  
19 service shall constitute a year toward service retirement.

20 Section 2. There is created a board to be known as  
21 the Board of Commissioners of the Alabama Firefighters Annuity  
22 and Benefit Fund. The board shall be composed of the following  
23 members:

24 (1) A consumer member appointed by the Governor for  
25 an initial term of two years.

1           (2) A volunteer firefighter appointed by the Alabama  
2 Association of Volunteer Fire Departments for an initial term  
3 of two years.

4           (3) A volunteer firefighter appointed by the Alabama  
5 Firefighters Association for an initial term of four years.

6           (4) A paid firefighter appointed by the Professional  
7 Firefighters Association of Alabama for an initial term of  
8 four years.

9           (5) A paid firefighter appointed by the Alabama  
10 Association of Fire Chiefs for an initial term of four years.

11           Thereafter, each member of the board shall serve for  
12 a period of four years. Any member of the board shall be  
13 eligible to succeed himself or herself. The term of each  
14 person appointed or elected to the board shall begin on the  
15 date of appointment or election, and any person so appointed  
16 or elected whose successor has not been appointed or elected  
17 shall continue to serve until the appointment or election of a  
18 successor. Any member of the board who shall cease to be a  
19 member during his or her incumbency shall be replaced as a  
20 member of the board by the appointing authority for the  
21 remainder of the unexpired term.

22           Section 3. All board members shall be paid thirty  
23 dollars (\$30) per day and mileage and per diem for attendance  
24 of board meetings. When a board member is traveling on fund  
25 business, he or she shall receive the same mileage and per  
26 diem as allowed for state employees while attending state  
27 business.

1           Section 4. The board shall have the following powers  
2 in carrying out its responsibilities:

3           (1) To collect all moneys provided in this act to be  
4 collected by it.

5           (2) To provide for and maintain all necessary  
6 administrative facilities and personnel.

7           (3) To provide for payment of all administrative  
8 salaries, fees, and expenses.

9           (4) To cause its moneys to be invested in a manner  
10 consistent with the Employees' Retirement System of Alabama  
11 investment policies and practices.

12           (6) To pass upon all applications for annuities and  
13 benefits provided for in this act.

14           (7) To adopt such rules as may be necessary or  
15 desirable to expedite the administration of the affairs of the  
16 board pursuant to the Alabama Administrative Procedure Act.

17           (8) To provide upon request descriptive literature  
18 regarding the fund.

19           (9) To pay all benefits and annuities that may be  
20 determined to be due under this act and under the rules of the  
21 board.

22           (10) To make refunds and repayments to which members  
23 may be entitled under this act.

24           (11) To employ such agents, attorneys, actuaries,  
25 and other specialized personnel as shall be necessary or  
26 desirable to enable the board to carry on its functions in a  
27 proper and actuarially sound manner.

1           (12) To receive by gift, grant, devise, or bequest  
2 any moneys or properties of any nature or description.

3           (13) To carry out any powers expressly granted  
4 elsewhere in this act to the board.

5           (14) All other powers necessary for the proper  
6 administration of the provisions of this act.

7           Section 5. The board shall keep permanent records of  
8 its membership, receipts, disbursements, and all of its other  
9 affairs under this act. Such records of the members shall show  
10 with respect to each member his or her name, age, date of  
11 beginning of prior service, date of beginning of membership  
12 service, the amount of all payments made by him or her to the  
13 fund, the date of any incapacity and the nature thereof and  
14 reason therefor, the amount of all annuities or benefits, if  
15 any, paid to him or her under this act and such other  
16 information with respect to each member as shall be deemed  
17 necessary by the board for the proper determination of  
18 eligibility for annuities and benefits under this act and the  
19 amount of potential liability of the fund for the same. All  
20 records, papers, documents, and other data of the board shall  
21 be carefully preserved in a safe, secure, and permanent  
22 manner.

23           Section 6. (a) A special fund is hereby established  
24 for the purpose of providing retirement allowances and other  
25 benefits for members of the fund. The fund shall be known as  
26 the Alabama Firefighters Annuity and Benefit Fund. All amounts  
27 received by the board shall be paid into the fund.

1 (b) The board shall deliver all monies not currently  
2 needed for the functioning of the board to the Employees'  
3 Retirement System of Alabama for investment and reimbursement  
4 as determined by ERS administrative policies and practices.  
5 The ERS shall charge a reasonable fee for providing investment  
6 services to the board. The board shall comply with all  
7 administrative policies and requests of the ERS regarding  
8 investment services provided by ERS. The board shall have such  
9 control of the fund as is consistent with this act and with  
10 the laws of the state.

11 (c) All moneys of the board not currently invested  
12 by the ERS shall be held in a special trust account or  
13 accounts in any bank or banks in the state and may be  
14 withdrawn therefrom by voucher, check, or electronic debit by  
15 the executive director pursuant to authorization given by the  
16 board. The board may expend moneys in the fund in accordance  
17 with this act.

18 Section 7. (a) In order to fund the provisions of  
19 this act, an annual fee of two dollars (\$2) may be voluntarily  
20 added to every property and casualty insurance policy issued  
21 or renewed in the state on and after January 1, 2011, by  
22 indicating on a check-off box which shall be provided on the  
23 policy billing. Each policy owner, at his or her option, may  
24 check whether two dollars (\$2) shall be added to the amount  
25 due the policy issuer. If a policy holder voluntarily so  
26 indicates, two dollars (\$2) shall be added to the policy



1 premium due and distributed by the property or casualty  
2 insurance issuer to the fund created by this act.

3 (b) The Department of Insurance shall promulgate  
4 rules for implementing this section.

5 Section 8. (a) Participation in the fund established  
6 by this act is entirely elective on the part of a firefighter,  
7 and the benefits provided herein are in addition to any other  
8 benefits provided by law for firefighters.

9 (b) Each firefighter who becomes a member shall pay  
10 to the fund a regular fee of twenty dollars (\$20) per calendar  
11 month, to be paid on or before the tenth calendar day of each  
12 month so long as he or she is a member or until he or she  
13 becomes entitled to benefits hereunder. A member who has 25  
14 years of qualified service in the fund and having met all  
15 other requirements of the law and thereby having earned  
16 maximum benefits provided will no longer be required to make  
17 monthly contributions for his or her membership and will  
18 retain all of the rights and privileges as provided any other  
19 member.

20 (c) Six months from the passage of this act, all  
21 applicants for membership who join the fund must pay an  
22 initial fee of twenty dollars (\$20) and twenty dollars (\$20)  
23 per month as long as they maintain their membership, with no  
24 regard given for firefighter service prior to the date of  
25 application.

26 (d) If any member does not pay the monthly fee for  
27 60 days after its due date, the board shall give him or her

1 notice of termination of his or her membership in the fund and  
2 of his or her right to a refund and unless he or she makes  
3 application for a refund within 60 days after the mailing of  
4 the notice, all amounts heretofore paid by him or her to the  
5 fund shall be returned to him or her. Any member so terminated  
6 who later applies for membership in the fund shall lose credit  
7 for all of his or her prior qualified service up to the time  
8 of such termination and, upon approval of his or her new  
9 application, will become a new member in the fund.

10 Section 9. Any firefighter who becomes a member of  
11 the fund and who thereafter leaves work as a firefighter and  
12 is drafted or enters directly into the Armed Forces of the  
13 United States and who returns to work as a firefighter within  
14 six months after he or she ceases to serve in the Armed Forces  
15 shall receive prior service credit for such service in the  
16 Armed Forces, not to exceed five years.

17 Section 10. (a) Any member shall, at any time after  
18 reaching the age of 62 and completion of at least 25 years'  
19 qualified service, be entitled to an annuity benefit.

20 (b) The amount of the monthly benefit shall be  
21 determined by the board in an amount recommended by the  
22 actuary for the fund. The benefit shall begin upon approval by  
23 the board on the date of the member's application for the  
24 benefits on forms provided by the board, but in no event shall  
25 the benefit begin prior to his or her termination of service  
26 as a firefighter. The benefits shall be paid for the life of  
27 the member, except as otherwise provided in this section.

1           (c) Any application made pursuant to this section  
2 shall contain evidence satisfactory to the board of the date  
3 of birth of the member. If any member receiving retirement  
4 benefits reenters employment as a firefighter, the payment of  
5 retirement benefits shall be terminated as long as he or she  
6 is so employed. Upon termination of his or her reemployment as  
7 a firefighter, the benefits shall resume if, during the period  
8 of reemployment, he or she has made all required monthly  
9 payments to the fund. Any employment as a firefighter after  
10 the initial retirement and during which the payments are made  
11 to the fund shall be included in the computation of membership  
12 service for the purpose of determining further rights and  
13 benefits under this section.

14           (d) Notwithstanding any other provisions of this act  
15 to the contrary, an active and contributing member of the fund  
16 may purchase service credit in the fund for prior service  
17 rendered as a full-time firefighter within this state which  
18 would have qualified at the time for membership in the fund.  
19 The prior service credit may be claimed within two years of  
20 joining as a member of the fund by making a lump-sum payment  
21 in the amount of the full actuarially determined cost for each  
22 year of prior service credit purchased as determined by the  
23 actuary for the fund.

24           Section 11. (a) Any member who becomes totally or  
25 permanently disabled as a result of a heart attack or any  
26 injury received in the line of duty as a firefighter not as a  
27 result of his or her misconduct and who makes proper

1 application to the board on a form supplied by the board and  
2 submits evidence satisfactory to the board of such total or  
3 permanent disability and the circumstances giving rise to its  
4 occurrence shall be entitled to be paid benefits. The board  
5 may require that any applicant for benefits under this section  
6 be examined by one or more physicians on behalf of the board  
7 and at its expense. Failure of any such applicant to subject  
8 himself or herself to such examination shall be sufficient  
9 grounds for the board to deny payment of benefits under this  
10 section. Any benefit paid under this section shall be paid for  
11 a period of not longer than 24 calendar months as follows:

12 (1) Seventy-two dollars (\$72) per calendar month if  
13 his or her qualified service is not more than 35 months.

14 (2) One hundred eight dollars (\$108) per calendar  
15 month if his or her qualified service is at least 36 months  
16 and not more than 47 months.

17 (3) One hundred forty-four dollars (\$144) per  
18 calendar month if his or her qualified service is at least 48  
19 months and not more than 59 months.

20 (4) One hundred eighty dollars (\$180) per calendar  
21 month if his or her qualified service is 60 months or more.

22 (b) Any member disabled as defined in this section  
23 for a period of more than 24 calendar months shall be eligible  
24 for retirement benefits under this act if he or she meets the  
25 requirements of Section 7.

26 (c) The account of any member not meeting the  
27 requirements of Section 7 who does not return to work after

1 having drawn disability benefits for 24 consecutive months  
2 shall be placed in an inactive status, not to exceed 36  
3 months, with no further benefits or privileges. If the member  
4 returns to fire fighting as a firefighter within the 36  
5 months, and pays the dues required, all of his or her  
6 creditable service shall be restored prior to the date of  
7 disability. If the member does not return to fire fighting  
8 within the 36 months, his or her account shall be closed with  
9 no further rights or benefits.

10 (d) Any member whose account is so closed who later  
11 applies for membership in the fund shall lose credit for all  
12 of his or her prior qualified service up to the time his or  
13 her account is closed and, upon approval of his or her new  
14 application, will become a new member in the fund.

15 Section 12. (a) Each member shall be issued a  
16 certificate by the board in which the board agrees to pay to a  
17 beneficiary designated by such member, upon his or her death  
18 while an active member, and to be conditioned upon the  
19 satisfaction of all obligations of the member to the fund, a  
20 lump sum amount of two thousand five hundred dollars (\$2,500).

21 (b) If any member is killed in the line of duty, his  
22 or her beneficiary or estate shall be paid all membership fees  
23 paid by the member. Such repayment of membership fees shall be  
24 in addition to the death benefit provided in this section. The  
25 board shall pay to the beneficiary of a member, upon his or  
26 her death while an active member, a refund pursuant to Section  
27 11.

1           Section 13. (a) The board shall appoint and employ  
2           an actuary to make an actuarial valuation every three years or  
3           earlier, if deemed required, of the receipts and income  
4           accruing to the fund based on age, expected mortality,  
5           disability, and retirement status of the members and the  
6           qualified service and membership service of members and to  
7           determine what percentage of the proposed payments, annuities,  
8           and benefits set forth in this act may be paid if the fund is  
9           to be kept on an actuarially sound and solvent basis. Upon  
10          receipt of the report of the actuary, the executive director  
11          shall present it to a meeting of the board which shall make  
12          adjustments of annuities and benefits, up or down, as are  
13          recommended by the actuary. Any increase or reduction in  
14          benefits resulting from any actuarial study or from any  
15          subsequent amendment of this act shall be applicable to all  
16          persons then receiving such benefits, even though such persons  
17          had theretofore received benefits at a different rate.

18                 (b) In no event shall the board, the fund, the  
19          association, the order, or any member, officer, director, or  
20          employee of any thereof or the state or any subdivision  
21          thereof or any municipality therein be liable to any member or  
22          any beneficiary or any representative of any member or any  
23          beneficiary of the fund for any deficiency in payments made  
24          pursuant to this act and pursuant to any pro rata reduction of  
25          annuities or benefits.

26                 Section 14. Any member shall be entitled at any time  
27          to withdraw from the fund and, upon application for such

1 withdrawal on forms supplied by the board and approved by it,  
2 shall be entitled to receive 90 percent of all amounts  
3 previously paid to the fund by such member. Any member who  
4 withdraws and receives such refund shall not thereafter have  
5 any rights with respect to the fund and may not thereafter be  
6 entitled to become a member except as a new member. Any member  
7 who ceases to be a firefighter may elect not to receive any  
8 such refund for a period of not more than 36 months. If within  
9 the 36-month period the person shall again become a  
10 firefighter, he or she may be reinstated as a member without  
11 loss of his or her accumulated qualified service. If a member  
12 does not return to service at the end of the 36 months'  
13 period, then his or her account shall be terminated and his or  
14 her fees shall be returned, thereby cancelling all his or her  
15 qualified service.

16 Section 15. (a) The executive director shall make  
17 semiannual reports to the board showing the total amount of  
18 money on hand at the time of such report, all investments then  
19 held by the board and itemizing by classifications all  
20 receipts and disbursements since the last such semiannual  
21 report.

22 (b) The Chief Examiner of the Department of  
23 Examiners of Public Accounts shall make an annual audit of the  
24 activities of the board for each fiscal year and make a  
25 complete report of the same to the Legislature. The annual  
26 audit shall cover all moneys received by the board and all

1 expenditures made by the board during the period covered by  
2 the audit.

3 Section 16. (a) All rights, annuities, and benefits  
4 provided herein shall be subject to future change by the  
5 Legislature, and subject to future changes or revisions as  
6 provided in this act, and no current or future member or  
7 beneficiary shall be deemed to have any vested right in the  
8 fund or to any annuity or benefit provided in this act.  
9 However, when the board has approved a member's application  
10 for a retirement annuity or benefit and the member has  
11 actually received benefits pursuant to the board's  
12 determination for a period of two years, then the board's  
13 determination as to the member's years of qualified service  
14 shall be conclusive, and the board shall not thereafter arrive  
15 at a different determination except in the case of fraud or  
16 misrepresentation of any fact by the applicant.

17 (b) Any member who is receiving retirement benefits  
18 and returns to active fire fighting shall be covered under the  
19 provisions of Section 7.

20 Section 17. None of the moneys referred to in this  
21 act or any benefit or annuity payable under this act shall be  
22 assignable nor subject to attachment, garnishment, or judgment  
23 entered against any member or beneficiary. All payments of  
24 annuities and benefits shall be paid directly to the member or  
25 beneficiary.

26 Section 18. (a) The annuities and benefits provided  
27 for in this act shall not repeal or be considered to be in



1 substitution for any other annuity or benefit provided for by  
2 law or any other retirement system, whether municipal, county,  
3 state, or federal.

4 (b) Participation by a firefighter in any other  
5 program, plan, fund, or system shall not bar participation by  
6 such firefighter in the fund.

7 Section 19. This act shall become effective on the  
8 first day of the third month following its passage and  
9 approval by the Governor, or its otherwise becoming law.