

1 SB303
2 128131-1
3 By Senators Holtzclaw, Whatley, Dial, Reed and Taylor
4 RFD: Finance and Taxation Education
5 First Read: 29-MAR-11

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8 SYNOPSIS: The Deferred Retirement Option Plan (DROP)
9 for certain employees has been repealed for future
10 participation.

11 This bill would provide the Alabama
12 Teachers' Planned Retirement Option (ATPRO) as an
13 optional retirement account available beginning
14 fiscal year 2012-2013 for certain members of the
15 Teachers' Retirement System.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To provide an optional retirement account, the
22 Alabama Teachers' Planned Retirement Option (ATPRO) for
23 members of the Teachers' Retirement System; to provide for
24 review and approval by local school systems to qualified
25 employees for participation in ATPRO; to place salary
26 limitations; to provide three- or five-year periods of
27 participation for participants; to require persons to withdraw

1 from active service upon completion of ATPRO; to prohibit
2 ATPRO participants from full or part time state employment
3 after ATPRO fulfillment; to provide rollover of ATPRO accounts
4 to eligible retirement accounts; and to provide certain
5 benefits for death or incomplete ATPRO service of ATPRO
6 participants.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. (a) As governed by this act, effective
9 for the 2012-2013 fiscal year, there is created as a part of
10 the Teachers' Retirement System an optional account known as
11 the Alabama Teachers' Planned Retirement Option, which may be
12 cited as "ATPRO." The purpose of ATPRO is to allow,
13 contractually, in lieu of immediate withdrawal from service
14 and receipt of a retirement allowance, continued employment
15 for a specific period of time, coupled with the deferral of
16 receipt of a retirement allowance until the end of the period
17 of participation, at which time the member shall withdraw from
18 service.

19 (b) Participation in ATPRO is an option available to
20 any member of the Teachers' Retirement System who meets all of
21 the following requirements:

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

24 (2) Is at least 55 years of age.

25 (3) Is eligible for service retirement.

26 (4) Has an annual salary of seventy-five thousand
27 dollars (\$75,000) or less.

1 (5) Has applied through and been approved by a local
2 school system.

3 (c) An election to participate may be made in
4 increments of either three years or five years. A member may
5 participate only one time. Any voluntary termination within
6 the first three years in ATPRO will result in a forfeiture of
7 the portion of his or her account that constitutes the
8 retirement allowance. However, member contributions will not
9 be forfeited, nor will any interest attributable to the
10 retirement allowance. There will be no penalty forfeiture if
11 the participation period is interrupted due to an involuntary
12 dismissal, disability, involuntary transfer of his or her
13 spouse, or death of the participant.

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

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

26 (f) The election to participate in ATPRO shall be
27 made in accordance with procedures set forth in a uniform and

1 nondiscriminatory election and application form adopted by the
2 Board of Control. The election to participate in ATPRO may be
3 made at any time on or after the date the member becomes
4 eligible to participate as set out in subsection (b).
5 Application must be made at least 30 days, but not more than
6 90 days, before the effective date of participation in ATPRO.

7 (g) Upon the effective date of the commencement in
8 ATPRO, the member's service shall remain as it existed on that
9 date for the duration of ATPRO. Once a member enters ATPRO,
10 service credit purchases are prohibited. Both the employer and
11 employee member contribution shall continue to be made. The
12 monthly retirement allowance that would have been payable, had
13 the person elected to withdraw from service and receive a
14 retirement allowance, shall be paid into a ATPRO account that
15 reflects the credits attributed to the person in ATPRO.
16 However, the monies shall remain a part of the regular
17 retirement fund until disbursed to the participating member in
18 accordance with this section. Any monies paid into this
19 account are subject to the exemptions set out in Section
20 16-25-23, Code of Alabama 1975.

21 (h) The ATPRO account shall earn interest at the
22 same rate that interest is posted to active teacher retirement
23 member accounts as defined in subdivision (15) of Section
24 16-25-1, Code of Alabama 1975. A person who participates in
25 this plan shall not be eligible to receive a retiree
26 cost-of-living increase while participating in ATPRO, and
27 shall not be eligible for a retiree cost-of-living increase

1 until participation in the plan ceases and he or she withdraws
2 from service and has been receiving a retirement allowance for
3 at least one full year.

4 (i) ATPRO shall not be subject to any fees, charges,
5 or other similar expenses of any kind for any purpose.

6 (j) Participation in ATPRO shall not affect the
7 rights of any education employee including, but not limited
8 to, the Fair Dismissal Act, Section 36-26-100, Code of Alabama
9 1975, the tenure law, Section 16-24-1, Code of Alabama 1975,
10 or any other fringe benefit.

11 (k) Participation in ATPRO shall not affect the
12 accrual of annual and sick leave by the participant.

13 (l) Participants in ATPRO may receive salary
14 cost-of-living adjustments and salary increases.

15 Section 2. (a) After the end of a person's three- or
16 five-year participation in ATPRO, the person shall withdraw
17 from service pursuant to Section 16-25-14, Code of Alabama
18 1975. A member who participated in ATPRO, upon such
19 withdrawal:

20 (1) Who fulfilled his or her three-year or five-year
21 contractual obligation pursuant to ATPRO shall receive a
22 lump-sum payment from his or her ATPRO account equal to the
23 payments made to that account on his or her behalf plus
24 interest. Further, the member shall receive his or her
25 accumulated contribution made during participation in ATPRO,
26 together with interest for the period of ATPRO participation
27 as provided in subdivision (1) of subsection (g) of Section

1 16-25-14, Code of Alabama 1975. In lieu of a lump-sum payment
2 from the ATPRO account, to the extent eligible under
3 applicable tax laws, the member's total accrued benefit may be
4 "rolled over" directly to the custodian of an eligible
5 retirement plan. The member shall also begin receiving his or
6 her monthly benefit which had been paid directly into the
7 ATPRO account during his or her participation in ATPRO.
8 However, the monthly benefit shall be recalculated
9 prospectively to reflect any accrued sick leave as credit for
10 retirement purposes. Conversion of sick leave is limited to
11 the applicable laws pertaining to conversion of sick leave
12 into retirement credit. In no event can the number of days
13 converted be greater than the number of days the participant
14 had on the date he or she entered ATPRO. The member is not
15 allowed to change the option allowance chosen at the beginning
16 of ATPRO participation.

17 (2) Who did not fulfill his or her obligation under
18 ATPRO due to involuntary termination, disability, or
19 involuntary transfer of his or her spouse, shall receive a
20 lump-sum payment from his or her ATPRO account equal to the
21 payments made to that account on his or her behalf plus
22 interest. Further, the member shall receive his or her
23 accumulated contribution made during participation in ATPRO,
24 together with interest for the period of ATPRO participation
25 as provided in subdivision (1) of subsection (g) of Section
26 16-25-14, Code of Alabama 1975. In lieu of a lump-sum payment
27 from the ATPRO account, to the extent eligible under

1 applicable tax laws, the member's total accrued benefit may be
2 "rolled over" directly to the custodian of an eligible
3 retirement plan. The member shall also begin receiving his or
4 her monthly benefit which had been paid directly into the
5 ATPRO account during his or her participation in ATPRO.
6 However, the monthly benefit shall be recalculated
7 prospectively to reflect any accrued sick leave as credit for
8 retirement purposes. Conversion of sick leave is limited to
9 the applicable laws pertaining to conversion of sick leave
10 into retirement credit. In no event can the number of days
11 converted be greater than the number of days the participant
12 had on the date he or she entered ATPRO. The member is not
13 allowed to change the option allowance chosen at the beginning
14 of ATPRO participation.

15 (3) Who did not fulfill his or her obligation under
16 ATPRO due to voluntary termination within the first three
17 years of participation shall forfeit a portion of his or her
18 ATPRO account that constitutes the retirement allowance. The
19 member shall be entitled to a return of his or her member
20 contribution made during his or her participation in ATPRO as
21 well as any interest attributable to the retirement allowance.
22 However, following termination of employment, the member shall
23 begin receiving his or her monthly benefit which had been paid
24 directly into the ATPRO account during his or her
25 participation in ATPRO. However, the monthly benefit shall be
26 recalculated prospectively to reflect any accrued sick leave
27 as credit for retirement purposes. Conversion of sick leave is

1 limited to the applicable laws pertaining to conversion of
2 sick leave into retirement credit. In no event can the number
3 of days converted be greater than the number of days the
4 participant had on the date he or she entered ATPRO. The
5 member is not allowed to change the option allowance chosen at
6 the beginning of ATPRO participation.

7 (b) If a participant dies during the period of
8 participation in ATPRO, a lump-sum payment equal to the
9 payments made to the ATPRO account on his or her behalf plus
10 interest shall be paid to his or her named beneficiary or, if
11 none, to his or her estate. Further, the beneficiary of the
12 estate shall be entitled to a return of the member's
13 contribution made during his or her participation in ATPRO
14 together with interest for the period of ATPRO participation
15 as provided in subdivision (1) of subsection (g) of Section
16 16-25-14, Code of Alabama 1975. However, death benefits
17 payable pursuant to subsection (g) of Section 16-25-14, Code
18 of Alabama 1975, shall not be applicable. Where there is a
19 beneficiary that would be entitled to an ongoing monthly
20 benefit, if applicable laws allow, the monthly benefit may be
21 recalculated prospectively to reflect accrued sick leave as
22 credit for retirement purposes. If applicable laws allow, the
23 beneficiary may elect to be paid for the deceased member's
24 sick leave as would any other member upon retirement. In no
25 event can the number of sick leave days used for either
26 calculation be greater than the number of days the participant
27 had on entry into ATPRO. The member is not allowed to change

1 the option allowance chosen at the beginning of ATPRO
2 participation.

3 (c) At the end of the specified period for ATPRO:

4 (1) Payments into the ATPRO account made on behalf
5 of the member shall cease.

6 (2) A lump sum payment from the ATPRO account shall
7 be made to the member unless rolled over to an eligible
8 retirement plan.

9 Section 3. At no time may any provision or an
10 implementation of any provision pertaining to ATPRO be
11 contrary to the rules and regulations of the federal law
12 governing governmental plans. ATPRO is intended to operate in
13 accordance with Section 415 and other applicable sections of
14 the United States Internal Revenue Code. Any provision of this
15 act found in conflict with an applicable provision of the
16 Internal Revenue Code shall be null and void. The Teachers'
17 Board of Control is hereby authorized to interpret this act so
18 as to achieve compliance with any applicable provisions of the
19 United States Internal Revenue Code.

20 Section 4. Notwithstanding the foregoing provisions
21 of this act or any other laws to the contrary, no employer
22 whose employees are covered under the Teachers' Retirement
23 System shall offer any incentives of value including, but not
24 limited to, monetary payments, prepayment of health insurance,
25 or extraordinary payments for accrued leave, contingent on the
26 member applying for or electing to participate in ATPRO. This
27 provision shall not apply to regular payments for leave or

1 contributions toward health insurance, but shall serve to
2 prevent any extraordinary benefits or incentives offered
3 during a limited time period solely for the purpose of
4 enticing employees to elect to participate in ATPRO.

5 Section 5. Any member of the Teachers' Retirement
6 System who has participated in ATPRO and withdraws from
7 service is not eligible to be restored to active service with
8 any other agency or employer that would qualify him or her for
9 membership in the Teachers' Retirement System, whether full or
10 part time.

11 Section 6. A person who is participating in or who
12 has participated in the DROP plan is not eligible to
13 participate in the ATPRO account created by this act.

14 Section 7. Sections 1 to 5 of this act shall become
15 operative with the 2012-2013 fiscal year.

16 Section 8. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.