

1 HB477
2 204970-4
3 By Representative Poole (N & P)
4 RFD: Tuscaloosa County Legislation
5 First Read: 04-MAY-20

1
2 ENROLLED, An Act,

3 Relating to the City of Tuscaloosa in Tuscaloosa
4 County; to amend Act 99-568 of the 1999 Regular Session (Acts
5 1999, p. 1220), as amended, providing for a retirement system
6 for police officers and firefighters; to amend Section 6.03
7 relating to member contributions, to phase in an increase in
8 the percentage of member contributions; to amend Section 6.05
9 relating to city contributions, to phase in an increase in the
10 percentage of city contributions; to amend Section 7.01
11 relating to the membership of the Police and Fire Pension
12 Board, to remove the chief of the fire department and chief of
13 the police department from membership on the board and provide
14 for the appointment of the chief financial officer, an
15 appointment by the mayor, and an additional active police
16 officer and firefighter on the board, increasing the
17 membership from 11 to 13, and to provide for the special
18 election of the same; to specify that the chair shall be
19 selected from the elected members of the board; to amend
20 Sections 7.02 and 7.03 to increase the length of the terms of
21 office of active and retired police officer and firefighter
22 members of the board from three to four years; to provide
23 further for the duties of the treasurer; to amend Section 7.04
24 relating to the duties of the board, to provide further for
25 the investment strategy; to amend Section 7.06 to increase the

1 quorum of the board for transacting business from seven to
2 nine members; and to add Article 11 to Act 99-568 of the 1999
3 Regular Session (Acts 1999, p. 1220), as amended, to establish
4 a temporary task force to provide long term recommendations to
5 the city, the board, and the local legislative delegation on
6 or before June 1, 2021.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 6.03 and 6.05 of Act 99-568 of
9 the 1999 Regular Session (Acts 1999, p. 1220), as last amended
10 by Act 2015-331 of the 2015 Regular Session (Acts 2015, p.
11 1011); Sections 7.01, 7.02, and 7.03 of Act 99-568 of the 1999
12 Regular Session (Acts 1999, p. 1220); Section 7.04 of Act
13 99-568 of the 1999 Regular Session (Acts 1999, p. 1220), as
14 last amended by Act 2013-436 of the 2013 Regular Session (Acts
15 2013, p. 1745), and Section 7.06 of Act 99-568 of the 1999
16 Regular Session (Acts 1999, p. 1220), are amended to read as
17 follows:

18 "§6.03 Member Contributions.

19 "(a) Prior to ~~the effective date of Act 99-568~~
20 September 1, 1999, from the salary of each firefighter and
21 police officer there shall be deducted and paid into the fund
22 an amount equal to seven percent (7%) of the amount of such
23 salary.

24 "(b) Beginning ~~with the effective date of this~~
25 ~~amendatory act~~ October 1, 2015, or as soon thereafter as

1 practical, from the salary of each firefighter and police
2 officer the city shall agree to assume and pay "picked up"
3 member contributions to the fund in lieu of direct
4 contributions by the member in an amount equal to eleven and
5 fifty hundredths percent (11.50%) of the amount of such salary
6 (excluding bonuses and other extra pay and benefits) with such
7 contributions being paid into the fund on behalf of the
8 member. Beginning on October 1, 2020, and each October 1
9 thereafter, up to and including October 1, 2022, the amount of
10 the "picked up" member contributions shall increase by fifty
11 hundredths percent (.50%) annually.

12 "Member contributions picked up by the city shall be
13 payable from the same source of funds used to pay compensation
14 to a member. A deduction shall be made from a member's salary
15 equal to the amount of contributions picked up by the city.
16 This deduction shall not reduce the member's salary, pension
17 base, or final average salary. No member shall have the option
18 of choosing to receive the contributed amounts directly
19 instead of having them paid by the city directly to the fund.
20 All such contributions by the city shall be deemed and
21 considered as part of the member's accumulated contributions
22 and subject to all provisions of this plan pertaining to
23 accumulated contributions of members, but treated as city
24 contributions in determining tax treatment under the Code. The

1 intent of this language is to comply with Section 414(h) (2) of
 2 the Internal Revenue Code of 1986, as amended.

3 "(c) Notwithstanding the provisions of 6.03(a) and
 4 6.03(b), whenever a member of the fire or police department of
 5 the city is ineligible for membership in the fund by reason of
 6 the provisions of this act, neither such ineligible member nor
 7 his or her salary nor other compensation shall be subject to
 8 any assessment for the benefit of this fund.

9 "§6.05 City Contributions (non picked-up).

10 "The governing body of the city shall cause to be
 11 paid into the fund out of the treasury of the city an amount
 12 equal to thirteen and fifty hundredths percent (13.50%) of the
 13 salary (excluding bonuses) of each member of the fire and
 14 police department who is eligible for membership in this fund,
 15 such payment to be made to the fund as and when such salary
 16 becomes payable, and deduction therefrom is made as provided
 17 in this section. Beginning on October 1, 2020, and each
 18 October 1 thereafter, up to and including October 1, 2022, the
 19 amount paid into the fund out of the treasury of the city
 20 shall increase by one percent (1%) annually.

21 "§7.01 Appointment of Board.

22 "(a) The board is responsible for the general
 23 administration of the plan and for carrying out the provisions
 24 of the plan. The board shall consist of ~~eleven~~ 13 members, as
 25 follows: (i) one member appointed by the Tuscaloosa City

1 Council to serve a term concurrent with the terms of the
2 members of the city council, who may be an employee of the
3 city but not an employee of the police or fire department,
4 (ii) ~~the chief of the fire department~~ chief financial officer
5 of the city, (iii) ~~the chief of the police department~~ one
6 member appointed by the mayor, (iv) ~~three additional~~ four
7 members from the fire department, (v) ~~three additional~~ four
8 members from the police department, (vi) one retired
9 firefighter, and (vii) one retired police officer. The member
10 appointed by the mayor pursuant to (iii) shall serve a
11 four-year term of office commencing June 1, 2020. The board
12 shall elect a chairperson from among the elected members on an
13 annual basis. The members of the Board of Trustees of the
14 Firemen's and Policemen's Pension and Relief Fund created
15 pursuant to Act No. 328 of the Alabama Legislature of 1959
16 (Acts 1959, p. 907), as amended, shall continue to serve as
17 members of the board created by ~~this~~ the act amending this
18 subsection until otherwise provided in 7.02 or 7.03.

19 "(b) There shall be a secretary of the board, whose
20 duties shall be, except as otherwise provided by this act, as
21 follows:

22 "Attend and take the minutes of official meetings
23 and actions of the board, prepare resolutions to be considered
24 or enacted by the board, maintain a record of those members or
25 eligible beneficiaries receiving benefits from the plan,

1 maintain a list of all members of the plan (reflecting the
2 date(s) of employment by the city, periods of employment,
3 breaks in service), maintain written communications of the
4 board, written requests from members for benefits and election
5 of benefits (provided, however, it shall be the responsibility
6 of the board to provide to the secretary the appropriate form
7 or forms for members and/or their eligible beneficiaries to
8 make elections of benefits and requests for payment of
9 benefits).

10 "(c) (1) There shall be a treasurer of the board,
11 ~~whose duties, except as otherwise provided by this act, shall~~
12 ~~be as follows: Maintain.~~ In addition to other duties provided
13 by this act and by the board pursuant to subdivision (2), the
14 treasurer shall maintain the financial records of the fund
15 (not investment portfolios or records or reports thereof)
16 regarding the amount paid each month to members and eligible
17 beneficiaries, maintain records of the board regarding
18 payments and receipts of the board in its normal course of
19 business, receive and deposit all money belonging to the fund
20 or coming into his or her hands as treasurer for and on behalf
21 of the fund, maintain records of all accounts established by
22 the board with financial institutions as depositories approved
23 by the board, determine the monthly balances of the funds
24 therein and interest received thereon, prepare checks or
25 warrants in the amounts and to the persons or entities in the

1 amounts and from the accounts designated by the board and
2 present them to the appropriate officials of the board for
3 execution, calculate and distribute federal and/or state
4 income tax forms to members and eligible beneficiaries
5 associated with payments from the fund, prepare monthly 941
6 reports, provide financial information within his or her
7 possession or control as treasurer to auditors, accountants,
8 actuaries and other consultants employed or retained by the
9 board, provided, however, nothing herein shall require or
10 obligate the treasurer of the fund to be qualified as a
11 certified public accountant nor to perform services to or on
12 behalf of the board traditionally performed by or in the
13 nature of auditing the finances or accounts of the fund, an
14 accountant, an actuary or investment counselor or advisor.

15 "(2) Additional duties of the treasurer may be
16 determined by a three-fourths vote of the membership of the
17 board, subject to approval by the governing body of the city.

18 "(d) The city shall provide secretary and treasurer
19 services to the board as herein defined through one or more of
20 its employees and/or by independent contract, as it deems
21 appropriate. The board may, by resolution duly enacted,
22 request the city relinquish all or any portion of the
23 performance of either or both of such services or any other
24 function required of the city or any of its officers, agents
25 or employees pursuant to this act, except that of board member

1 members. The city may then elect to relinquish such services
2 or function by resolution duly enacted by the city council.
3 Provided, however, upon the relinquishment of any such service
4 or function, and subject to the terms and conditions agreed
5 upon between the parties as set forth in their respective
6 resolutions, the city shall be relieved of the performance of
7 the same unless reassumed by corresponding action of the board
8 and the city council.

9 "§7.02 Election of Active Police Officers and
10 Firefighters.

11 "(a) The ~~three~~ four members of the board described
12 in 7.01(a) (v) ~~above~~ shall be elected from among their number
13 by the police officers who are entitled to vote in such
14 election and the ~~three~~ four members of the board described in
15 7.01(a) (iv) above shall be elected from among their number by
16 the firefighters who are entitled to vote in such election.
17 ~~Neither the chief of police nor the chief of the fire~~
18 ~~department shall be entitled to vote in such elections.~~

19 "(b) The members of the board who have been elected
20 and are serving as described in 7.01(a) (iv) and 7.01(a) (v) ~~at~~
21 ~~the effective date of this act~~ on September 1, 1999, shall
22 serve until the next scheduled regular election for such
23 respective member. Such elections shall be held on the second
24 Tuesday, Wednesday, and Thursday in January, with each member
25 serving a staggered three-year term, beginning with the year

1 2001. Commencing on the effective date of the act amending
2 this subsection, as terms on the board expire under this
3 section, successors to those positions, and the two additional
4 active members added by the act amending this subsection,
5 shall be elected to serve four-year terms. The board shall
6 hold special elections for the two additional active members,
7 with the terms for the same to be staggered to meet a normal
8 four-year term ending in January 2024. All such elections
9 shall be held independently of one another and shall be held
10 at police headquarters for the police department and at fire
11 station number one for the fire department, or some other
12 place duly designated by the board, beginning at eight o'clock
13 in the forenoon and continuing until five o'clock in the
14 afternoon.

15 "(c) Only police officers and firefighters who are
16 eligible to become members of the plan and to participate in
17 the benefits as herein provided shall be entitled to vote in
18 such elections. Voting shall be by secret ballot.

19 "(d) The city clerk or his or her designee shall
20 prepare the ballots which shall be printed, typewritten,
21 mimeographed, or reproduced by other means. He or she shall
22 place on said ballots the names only of those nominated as
23 candidates as herein provided and the names of such as may
24 request in writing that their own names be placed thereon as
25 nominees. Any three members of the fire department eligible to

1 vote in such election may nominate in writing a candidate
2 willing to serve from the fire department, and any three
3 members of the police department eligible to vote in such
4 election may nominate in writing a candidate willing to serve
5 from the police department. Such nominations and such requests
6 from persons entitled to vote in said election that their own
7 names be placed in nomination on such ballot shall be filed
8 with the city clerk or his or her designee not earlier than
9 two weeks before the date of such election and not later than
10 five o'clock in the afternoon of Thursday immediately
11 preceding such election.

12 "(e) The candidate receiving a majority of the votes
13 cast in an election shall hold office as a board member for a
14 term of ~~three~~ four years beginning on the Monday next
15 following that election and until a successor is elected and
16 must accept by notifying the chairperson of the board of such
17 acceptance. If no candidate receives a majority of the votes
18 cast, a runoff election will be held between the two
19 candidates receiving the highest numbers of votes. If no
20 candidate receives a majority of the votes cast, and two or
21 more candidates receive the same number of votes for purposes
22 of joining the runoff election, then the chairperson of the
23 board shall forthwith determine by lot from the persons so
24 receiving such equal number of votes who shall be included in
25 the runoff election.

1 "f) The chief of the police department and one
2 police officer selected by him or her and the chief of the
3 fire department and one firefighter selected by him or her
4 shall act as election officials in their respective
5 departments and, on the last election day immediately after
6 the casting of such ballots, shall canvass and count the same
7 for their respective departments and certify in writing in
8 duplicate the number of ballots cast and the number of ballots
9 received by each candidate. After signing such certificates,
10 each chief shall immediately post one copy thereof at the
11 place of election and not later than twelve o'clock noon on
12 the following day deliver one copy thereof together with all
13 the ballots cast by his or her department, in a securely
14 sealed envelope, to the chairperson of the board who shall on
15 the day following said election in the presence of the chief
16 of such fire department and the chief of such police
17 department, open said envelopes, examine said certificates and
18 ascertain and determine the total number of ballots cast at
19 said election for each of the candidates, and shall issue
20 certificates of election to the candidates receiving the
21 highest number of votes as aforesaid. In case any two
22 candidates shall have received the same number of votes in a
23 runoff election, so that there would be no choice under the
24 foregoing provisions, then the chairperson of the board shall
25 forthwith determine by lot from the persons so receiving such

1 equal number of votes who shall be the trustee. No election
2 shall be set aside for want of formality in balloting by such
3 members, or in certifying or transmitting returns of such
4 election by the officer or persons in charge thereof.

5 "(g) Should a vacancy occur in the position of an
6 elected member of the board as described in 7.01(iv) or 7.01
7 (v), such vacancy ~~shall~~, with reasonable promptness, shall be
8 filled for the unexpired term from the department in which the
9 vacancy exists, by means of a special election.

10 "§7.03 Election of Retired Police Officers and
11 Firefighters.

12 "(a) The member of the board described in 7.01(vii)
13 ~~above~~ shall be elected from among their number by the retired
14 police officers who are entitled to vote in such election and
15 the member of the board described in 7.01(vi) above shall be
16 elected from among their number by the retired firefighters
17 who are entitled to vote in such election.

18 "(b) The members of the board who have been elected
19 and are serving as described in 7.01(vi) and 7.01(vii) ~~at the~~
20 ~~effective date of this act~~ on September 1, 1999, shall serve
21 until the next scheduled regular election for these members.
22 Such election shall be held on the second Tuesday, Wednesday,
23 and Thursday in January of every third year, beginning with
24 the year 2002. Commencing on the effective date of the act
25 amending this subsection, as terms on the board expire under

1 this section, successors to those positions shall be elected
2 to serve four-year terms. All such elections shall be held
3 independently of one another and shall be held at police
4 headquarters for retired police officers and at fire station
5 number one for retired firefighters, or some other place duly
6 designated by the board, beginning at eight o'clock in the
7 forenoon and continuing until five o'clock in the afternoon.

8 "(c) Only retired police officers and firefighters
9 who are receiving a benefit from the fund as herein provided
10 shall be entitled to vote in such elections. Voting shall be
11 by secret ballot.

12 "(d) The city clerk or his or her designee shall
13 prepare the ballots which shall be printed, typewritten,
14 mimeographed, or reproduced by other means. He or she shall
15 place on said ballots the names only of those nominated as
16 candidates as herein provided and the names of such as may
17 request in writing that their own names be placed thereon as
18 nominees. Any three retired members of the fire department
19 eligible to vote in such election may nominate in writing a
20 candidate willing to serve from the retired members of the
21 fire department, and any three retired members of the police
22 department eligible to vote in such election may nominate in
23 writing a candidate willing to serve from the retired members
24 of the police department. Such nominations and such requests
25 from persons entitled to vote in said election that their own

1 names be placed in nomination on such ballot shall be filed
2 with the city clerk or his or her designee not earlier than
3 two weeks before the date of such election and not later than
4 five o'clock in the afternoon of Thursday immediately
5 preceding such election.

6 "(e) The candidate receiving a majority of the votes
7 cast in an election shall hold office as such board member for
8 a term of ~~three~~ four years beginning on the Monday next
9 following that election and until his or her successor is
10 elected and he or she must accept by notifying the chairperson
11 of the board of such acceptance. If no candidate receives a
12 majority of the votes cast, a runoff election will be held
13 between the two candidates receiving the highest numbers of
14 votes. If no candidate receives a majority of the votes cast,
15 and two or more candidates receive the same number of votes
16 for purposes of joining the runoff election, then the
17 chairperson of the board shall forthwith determine by lot from
18 the persons so receiving such equal number of votes who shall
19 be included in the runoff election.

20 "(f) The chief of the police department and one
21 retired police officer selected by him or her and the chief of
22 the fire department and one retired firefighter selected by
23 him or her shall act as election officials in their respective
24 departments and, on the last election day immediately after
25 the casting of such ballots, shall canvass and count the same

1 for their respective departments and certify in writing in
2 duplicate the number of ballots cast and the number of ballots
3 received by each candidate. After signing such certificates,
4 each chief shall immediately post one copy thereof at the
5 place of election and not later than twelve o'clock noon on
6 the following day deliver one copy thereof together with all
7 the ballots cast by his or her department, in a securely
8 sealed envelope, to the chairperson of the board who shall on
9 the day following said election in the presence of the chief
10 of such fire department and the chief of such police
11 department, open said envelopes, examine said certificates and
12 ascertain and determine the total number of ballots cast at
13 said election for each of the candidates, and shall issue
14 certificates of election to the candidates receiving the
15 highest number of votes as aforesaid. In case any two
16 candidates shall have received the same number of votes in a
17 runoff election, so that there would be no choice under the
18 foregoing provisions, then the chairperson of the board shall
19 forthwith determine by lot from the persons so receiving such
20 equal number of votes who shall be the trustee. No election
21 shall be set aside for want of formality in balloting by such
22 members, or in certifying or transmitting returns of such
23 election by the officer or persons in charge thereof.

24 "(g) Should a vacancy occur in the position of an
25 elected member of the board as described in 7.01(vi) or 7.01

1 (vii), such vacancy ~~shall~~, with reasonable promptness, shall
2 be filled for the unexpired term from retired members of the
3 department in which the vacancy exists, by means of a special
4 election.

5 "7.04 Duties of the Board.

6 "(a) The members of the board shall annually elect a
7 chairperson from their number; may appoint from their number
8 such subcommittees with such powers as they shall determine;
9 may authorize one or more of their number or any agent to
10 execute or deliver any instrument or make any payment on their
11 behalf; may retain counsel, employ agents, and provide for
12 such clerical, accounting, actuarial, financial, and
13 consulting services as they may require in carrying out ~~the~~
14 ~~provisions of~~ the plan; and may allocate among themselves or
15 delegate to other persons all or such portion of their
16 functions under the plan subject to proper supervision and
17 accountability, as they, in their sole discretion, shall
18 decide. The board shall authorize an audit of the fund to be
19 made by an independent accountant at least once every year.
20 The board shall authorize an actuarial study to be made of the
21 fund at least once every other year by the plan actuary, where
22 such study is based upon reasonable actuarial assumptions and
23 methods as determined by the plan actuary.

24 "(b) The board shall appoint a financial institution
25 (which may be a bank or trust company or other financial

1 institution) as a depository and the treasurer of the fund
2 shall promptly deposit all money belonging to the fund or
3 coming into his or her hands as treasurer thereof in the
4 depository. If any of the funds are dissipated or lost by
5 reason of the insolvency or failure of the financial
6 institution appointed as the depository as provided herein,
7 the dissipation or loss shall not constitute a liability on
8 the official bond of the chief financial officer of the city
9 ~~and/or~~ or the treasurer of the fund, or both, nor a liability
10 against the sureties thereon. All interest received on the
11 deposits shall become a part of the fund.

12 "(c) The board after considering the probable
13 demands upon the fund, may invest such portion of it as may be
14 safely withdrawn for the purpose. The board may employ
15 investment counselors and agents to invest and manage such
16 portions of the fund as the board may direct. Of that portion
17 of the fund which the board has determined to be available for
18 investment, not less than 30 percent shall be invested, or
19 held for investment, in interest bearing bonds or securities
20 of the United States of America, bonds of any state in the
21 United States, any bonds lawfully issued by municipalities in
22 the United States, or invested in any insured savings and loan
23 association to the extent that such investment is insured by
24 the Federal Savings and Loan Insurance Corporation; or
25 invested in any commercial bank to the extent such investment

1 is insured by the Federal Deposit Insurance Corporation; not
2 exceeding 70 percent of the money deemed available for
3 investment may be invested in corporate stocks and bonds. The
4 board, by a three-fourths vote of the membership of the board,
5 may invest up to 10 percent of the money deemed available for
6 investment in alternative investments. All income from
7 investments shall be and become a part of the fund. All
8 securities belonging to the fund shall be deposited with the
9 treasurer of the fund, or in the event that a financial agent
10 has been employed, may be held by the financial agent and
11 shall be subject to the direction and control of the board.

12 "(d) On or before the first day of February of each
13 year, the board shall make a written report to the mayor and
14 city council, and to the fire department and the police
15 department in the city, of the condition of the fund as of
16 December 31st of the preceding year.

17 "§7.06 Meetings.

18 "(a) The board shall meet not less than once each
19 month and at such other times as may be considered necessary
20 by the chairperson or any two other members of the board. All
21 meetings shall be upon such notice, at such place or places,
22 and at such time or times as the board may from time to time
23 determine. ~~Seven~~ Nine members of the board shall constitute a
24 quorum for the transaction of business. Board members must be
25 present to vote; no proxies shall be allowed. Each board

1 member shall have one vote. Action shall be taken if approved
 2 by the affirmative vote of at least seven members.

3 "(b) The board shall keep separate and adequate
 4 records of all its meetings and proceedings. The records shall
 5 be public and shall be subject to inspection during normal
 6 business hours to the extent required by Alabama law.

7 "(c) The city shall make available to the board
 8 within one of its facilities or buildings, a conference room
 9 to be utilized by the board for the purpose of conducting its
 10 monthly or special meetings. The use of any such conference
 11 room shall be subject to reasonable advance notice to the
 12 appropriate city official and availability."

13 Section 2. Article 11 is added to Act 99-568 of the
 14 1999 Regular Session (Acts 1999, p. 1220), as amended, to read
 15 as follows:

16 §11.01. Creation of task force.

17 There is created a temporary advisory task force.
 18 The task force shall do all of the following:

19 (1) Review, analyze, and provide a report on the
 20 economic health and sustainability of the fund based upon
 21 actuarial valuations and updated assumptions.

22 (2) Explore the administrative and governance
 23 structure of the existing fund.

24 (3) Provide a comprehensive report that outlines a
 25 plan with a menu of options to achieve a fully funded pension

1 plan to the board, the city, and each member of the local
2 legislative delegation.

3 (4) Explore all viable pension conversions and
4 modifications.

5 (5) Explore all state funding mechanisms currently
6 received or available, or both, to the city that may provide a
7 legal source of revenue for the fund.

8 §11.02. Composition of task force.

9 (a) The task force shall consist of seven regular
10 members and three ex officio members. The seven regular
11 members shall include all of the following:

12 (1) Four members representing the city, two
13 appointed by the city council and two appointed by the mayor.

14 (2) Two members representing the board, appointed by
15 the board.

16 (3) One member representing the local legislative
17 delegation, appointed by the membership of the local
18 legislative delegation.

19 (b) Members representing the city shall have
20 experience in one or more of the following areas: Public or
21 private pension funds, legal, business administration, finance
22 administration, or public administration.

23 (c) The three ex officio members shall include all
24 of the following:

25 (1) The mayor, or his or her designee.

1 (2) The chair of the local legislative delegation,
2 or his or her designee.

3 (3) The chair of the board, or his or her designee.

4 §11.03. Professional services provided by city.

5 The city shall provide funding for professional
6 services directed to the accomplishment of the objectives of
7 the task force, subject to the approval of the mayor and city
8 council and reasonableness and public purpose requirements and
9 standards.

10 §11.04. Timeliness of duties of task force.

11 Reports of the task force shall be completed no
12 later than June 1, 2021, at which time the task force shall be
13 dissolved. No recommendation of the task force shall become a
14 requirement for action by any entity and all actions of the
15 task force are subject to the Alabama Open Meetings Act and
16 applicable public records laws.

17 Section 3. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.

