

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

A BILL
TO BE ENTITLED
AN ACT

Relating to the City of Tuscaloosa in Tuscaloosa County; to amend Act 99-568 of the 1999 Regular Session (Acts 1999, p. 1220), as amended, providing for a retirement system for police officers and firefighters; to amend Section 6.03 relating to member contributions, to phase in an increase in the percentage of member contributions; to amend Section 6.05 relating to city contributions, to phase in an increase in the percentage of city contributions; to amend Section 7.01 relating to the membership of the Police and Fire Pension Board, to remove the chief of the fire department and chief of the police department from membership on the board and provide for the appointment of the chief financial officer, an appointment by the mayor, and an additional active police officer and firefighter on the board, increasing the membership from 11 to 13, and to provide for the special

1 election of the same; to specify that the chair shall be
2 selected from the elected members of the board; to amend
3 Sections 7.02 and 7.03 to increase the length of the terms of
4 office of active and retired police officer and firefighter
5 members of the board from three to four years; to provide
6 further for the duties of the treasurer; to amend Section 7.04
7 relating to the duties of the board, to provide further for
8 the investment strategy; to amend Section 7.06 to increase the
9 quorum of the board for transacting business from seven to
10 nine members; and to add Article 11 to Act 99-568 of the 1999
11 Regular Session (Acts 1999, p. 1220), as amended, to establish
12 a temporary task force to provide long term recommendations to
13 the city, the board, and the local legislative delegation on
14 or before June 1, 2021.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 6.03 and 6.05 of Act 99-568 of
17 the 1999 Regular Session (Acts 1999, p. 1220), as last amended
18 by Act 2015-331 of the 2015 Regular Session (Acts 2015, p.
19 1011); Sections 7.01, 7.02, and 7.03 of Act 99-568 of the 1999
20 Regular Session (Acts 1999, p. 1220); Section 7.04 of Act
21 99-568 of the 1999 Regular Session (Acts 1999, p. 1220), as
22 last amended by Act 2013-436 of the 2013 Regular Session (Acts
23 2013, p. 1745), and Section 7.06 of Act 99-568 of the 1999
24 Regular Session (Acts 1999, p. 1220), are amended to read as
25 follows:

26 "§6.03 Member Contributions.

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

6 "~~(b) Beginning with the effective date of this~~
7 ~~amendatory act~~ October 1, 2015, or as soon thereafter as
8 practical, from the salary of each firefighter and police
9 officer the city shall agree to assume and pay "picked up"
10 member contributions to the fund in lieu of direct
11 contributions by the member in an amount equal to eleven and
12 fifty hundredths percent (11.50%) of the amount of such salary
13 (excluding bonuses and other extra pay and benefits) with such
14 contributions being paid into the fund on behalf of the
15 member. Beginning on October 1, 2020, and each October 1
16 thereafter, up to and including October 1, 2022, the amount of
17 the "picked up" member contributions shall increase by fifty
18 hundredths percent (.50%) annually.

19 "Member contributions picked up by the city shall be
20 payable from the same source of funds used to pay compensation
21 to a member. A deduction shall be made from a member's salary
22 equal to the amount of contributions picked up by the city.
23 This deduction shall not reduce the member's salary, pension
24 base, or final average salary. No member shall have the option
25 of choosing to receive the contributed amounts directly
26 instead of having them paid by the city directly to the fund.
27 All such contributions by the city shall be deemed and

1 considered as part of the member's accumulated contributions
2 and subject to all provisions of this plan pertaining to
3 accumulated contributions of members, but treated as city
4 contributions in determining tax treatment under the Code. The
5 intent of this language is to comply with Section 414(h)(2) of
6 the Internal Revenue Code of 1986, as amended.

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

13 "§6.05 City Contributions (non picked-up).

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

25 "§7.01 Appointment of Board.

26 "(a) The board is responsible for the general
27 administration of the plan and for carrying out the provisions

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

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

24 "Attend and take the minutes of official meetings
25 and actions of the board, prepare resolutions to be considered
26 or enacted by the board, maintain a record of those members or
27 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
26 amounts and from the accounts designated by the board and
27 present them to the appropriate officials of the board for

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

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

16 "(d) The city shall provide secretary and treasurer
17 services to the board as herein defined through one or more of
18 its employees and/or by independent contract, as it deems
19 appropriate. The board may, by resolution duly enacted,
20 request the city relinquish all or any portion of the
21 performance of either or both of such services or any other
22 function required of the city or any of its officers, agents
23 or employees pursuant to this act, except that of board ~~member~~
24 members. The city may then elect to relinquish such services
25 or function by resolution duly enacted by the city council.
26 Provided, however, upon the relinquishment of any such service
27 or function, and subject to the terms and conditions agreed

1 upon between the parties as set forth in their respective
2 resolutions, the city shall be relieved of the performance of
3 the same unless reassumed by corresponding action of the board
4 and the city council.

5 "§7.02 Election of Active Police Officers and
6 Firefighters.

7 "(a) The ~~three~~ four members of the board described
8 in 7.01(a) (v) ~~above~~ shall be elected from among their number
9 by the police officers who are entitled to vote in such
10 election and the ~~three~~ four members of the board described in
11 7.01(a) (iv) above shall be elected from among their number by
12 the firefighters who are entitled to vote in such election.

13 ~~Neither the chief of police nor the chief of the fire~~
14 ~~department shall be entitled to vote in such elections.~~

15 "(b) The members of the board who have been elected
16 and are serving as described in 7.01(a) (iv) and 7.01(a) (v) ~~at~~
17 ~~the effective date of this act~~ on September 1, 1999, shall
18 serve until the next scheduled regular election for such
19 respective member. Such elections shall be held on the second
20 Tuesday, Wednesday, and Thursday in January, with each member
21 serving a staggered three-year term, beginning with the year
22 2001. Commencing on the effective date of the act amending
23 this subsection, as terms on the board expire under this
24 section, successors to those positions, and the two additional
25 active members added by the act amending this subsection,
26 shall be elected to serve four-year terms. The board shall
27 hold special elections for the two additional active members,

1 with the terms for the same to be staggered to meet a normal
2 four-year term ending in January 2024. All such elections
3 shall be held independently of one another and shall be held
4 at police headquarters for the police department and at fire
5 station number one for the fire department, or some other
6 place duly designated by the board, beginning at eight o'clock
7 in the forenoon and continuing until five o'clock in the
8 afternoon.

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

13 "(d) The city clerk or his or her designee shall
14 prepare the ballots which shall be printed, typewritten,
15 mimeographed, or reproduced by other means. He or she shall
16 place on said ballots the names only of those nominated as
17 candidates as herein provided and the names of such as may
18 request in writing that their own names be placed thereon as
19 nominees. Any three members of the fire department eligible to
20 vote in such election may nominate in writing a candidate
21 willing to serve from the fire department, and any three
22 members of the police department eligible to vote in such
23 election may nominate in writing a candidate willing to serve
24 from the police department. Such nominations and such requests
25 from persons entitled to vote in said election that their own
26 names be placed in nomination on such ballot shall be filed
27 with the city clerk or his or her designee not earlier than

1 two weeks before the date of such election and not later than
2 five o'clock in the afternoon of Thursday immediately
3 preceding such election.

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

18 "(f) The chief of the police department and one
19 police officer selected by him or her and the chief of the
20 fire department and one firefighter selected by him or her
21 shall act as election officials in their respective
22 departments and, on the last election day immediately after
23 the casting of such ballots, shall canvass and count the same
24 for their respective departments and certify in writing in
25 duplicate the number of ballots cast and the number of ballots
26 received by each candidate. After signing such certificates,
27 each chief shall immediately post one copy thereof at the

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

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

25 "§7.03 Election of Retired Police Officers and
26 Firefighters.

1 "(a) The member of the board described in 7.01(vii)
2 ~~above~~ shall be elected from among their number by the retired
3 police officers who are entitled to vote in such election and
4 the member of the board described in 7.01(vi) above shall be
5 elected from among their number by the retired firefighters
6 who are entitled to vote in such election.

7 "(b) The members of the board who have been elected
8 and are serving as described in 7.01(vi) and 7.01(vii) ~~at the~~
9 ~~effective date of this act~~ on September 1, 1999, shall serve
10 until the next scheduled regular election for these members.
11 Such election shall be held on the second Tuesday, Wednesday,
12 and Thursday in January of every third year, beginning with
13 the year 2002. Commencing on the effective date of the act
14 amending this subsection, as terms on the board expire under
15 this section, successors to those positions shall be elected
16 to serve four-year terms. All such elections shall be held
17 independently of one another and shall be held at police
18 headquarters for retired police officers and at fire station
19 number one for retired firefighters, or some other place duly
20 designated by the board, beginning at eight o'clock in the
21 forenoon and continuing until five o'clock in the afternoon.

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

26 "(d) The city clerk or his or her designee shall
27 prepare the ballots which shall be printed, typewritten,

1 mimeographed, or reproduced by other means. He or she shall
2 place on said ballots the names only of those nominated as
3 candidates as herein provided and the names of such as may
4 request in writing that their own names be placed thereon as
5 nominees. Any three retired members of the fire department
6 eligible to vote in such election may nominate in writing a
7 candidate willing to serve from the retired members of the
8 fire department, and any three retired members of the police
9 department eligible to vote in such election may nominate in
10 writing a candidate willing to serve from the retired members
11 of the police department. Such nominations and such requests
12 from persons entitled to vote in said election that their own
13 names be placed in nomination on such ballot shall be filed
14 with the city clerk or his or her designee not earlier than
15 two weeks before the date of such election and not later than
16 five o'clock in the afternoon of Thursday immediately
17 preceding such election.

18 "(e) The candidate receiving a majority of the votes
19 cast in an election shall hold office as such board member for
20 a term of ~~three~~ four years beginning on the Monday next
21 following that election and until his or her successor is
22 elected and he or she must accept by notifying the chairperson
23 of the board of such acceptance. If no candidate receives a
24 majority of the votes cast, a runoff election will be held
25 between the two candidates receiving the highest numbers of
26 votes. If no candidate receives a majority of the votes cast,
27 and two or more candidates receive the same number of votes

1 for purposes of joining the runoff election, then the
2 chairperson of the board shall forthwith determine by lot from
3 the persons so receiving such equal number of votes who shall
4 be included in the runoff election.

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

1 foregoing provisions, then the chairperson of the board shall
2 forthwith determine by lot from the persons so receiving such
3 equal number of votes who shall be the trustee. No election
4 shall be set aside for want of formality in balloting by such
5 members, or in certifying or transmitting returns of such
6 election by the officer or persons in charge thereof.

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

13 "7.04 Duties of the Board.

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

1 The board shall authorize an actuarial study to be made of the
2 fund at least once every other year by the plan actuary, where
3 such study is based upon reasonable actuarial assumptions and
4 methods as determined by the plan actuary.

5 "(b) The board shall appoint a financial institution
6 (which may be a bank or trust company or other financial
7 institution) as a depository and the treasurer of the fund
8 shall promptly deposit all money belonging to the fund or
9 coming into his or her hands as treasurer thereof in the
10 depository. If any of the funds are dissipated or lost by
11 reason of the insolvency or failure of the financial
12 institution appointed as the depository as provided herein,
13 the dissipation or loss shall not constitute a liability on
14 the official bond of the chief financial officer of the city
15 ~~and/or~~ or the treasurer of the fund, or both, nor a liability
16 against the sureties thereon. All interest received on the
17 deposits shall become a part of the fund.

18 "(c) The board after considering the probable
19 demands upon the fund, may invest such portion of it as may be
20 safely withdrawn for the purpose. The board may employ
21 investment counselors and agents to invest and manage such
22 portions of the fund as the board may direct. Of that portion
23 of the fund which the board has determined to be available for
24 investment, not less than 30 percent shall be invested, or
25 held for investment, in interest bearing bonds or securities
26 of the United States of America, bonds of any state in the
27 United States, any bonds lawfully issued by municipalities in

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

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

21 "§7.06 Meetings.

22 "(a) The board shall meet not less than once each
23 month and at such other times as may be considered necessary
24 by the chairperson or any two other members of the board. All
25 meetings shall be upon such notice, at such place or places,
26 and at such time or times as the board may from time to time
27 determine. ~~Seven~~ Nine members of the board shall constitute a

1 quorum for the transaction of business. Board members must be
2 present to vote; no proxies shall be allowed. Each board
3 member shall have one vote. Action shall be taken if approved
4 by the affirmative vote of at least seven members.

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

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

15 Section 2. Article 11 is added to Act 99-568 of the
16 1999 Regular Session (Acts 1999, p. 1220), as amended, to read
17 as follows:

18 §11.01. Creation of task force.

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

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

24 (2) Explore the administrative and governance
25 structure of the existing fund.

26 (3) Provide a comprehensive report that outlines a
27 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.

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

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

2 §11.03. Professional services provided by city.

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

8 §11.04. Timeliness of duties of task force.

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

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