

1 SB79
2 208776-3
3 By Senator Gudger
4 RFD: Governmental Affairs
5 First Read: 02-FEB-21
6 PFD: 01/27/2021

SYNOPSIS: Under existing law, there are 13 trustees appointed or elected to the State Employees' Retirement System Board of Control. Currently, two trustees represent employees of employers participating pursuant to Section 36-27-6.

This bill would add one additional trustee of the board for an employee of an employer participating pursuant to Section 36-27-6 and one additional trustee of the board for an employee or retiree of an employer participating pursuant to Section 36-27-6.

This bill would also include diversity language for the board and would allow a trustee who retires from active service after appointment or election to continue to serve until the expiration of the trustee's term.

A BILL
TO BE ENTITLED
AN ACT

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To amend Section 36-27-23 of the Code of Alabama 1975, to include additional representatives to the State Employees' Retirement System Board of Control; to add diversity language; and to authorize a trustee who retires from active service after appointment or election to continue to serve until the expiration of the trustee's term.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§36-27-23.

"(a) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this article are hereby vested in a board of trustees which shall be known as the Board of Control.

"(b) The board shall consist of ~~13~~ 15 trustees as follows:

"(1) The Governor, ex officio, who shall be chairman.

"(2) The State Treasurer, ex officio.

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

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

"(5) Three members of the retirement system, to be appointed by the Governor, no two of whom shall be from the same department of the state government nor from any department of which an ex officio trustee is the head. The

1 state employees appointed pursuant to this section shall be
2 Merit System employees with at least ten years of creditable
3 state service and shall not be a department head or an
4 assistant department head. The terms of office of the three
5 members appointed by the Governor shall begin immediately
6 after they have qualified and taken the oath of office. For
7 appointments made after February 1, 2020, the Governor shall
8 coordinate his or her appointments to assure that Board of
9 Control membership is inclusive and reflects the racial,
10 gender, and economic diversity of the state.

11 "(6) Two members of the State Employees' Retirement
12 System who shall be vested in the system and elected by a
13 majority vote of the participating full-time state employees
14 who are members of the system, through the use of a statewide
15 ballot conducted by the Secretary-Treasurer under rules
16 promulgated by the Board of Control. For their original terms,
17 one shall serve for a two-year term and one shall serve for a
18 three-year term. Thereafter, their successors each shall serve
19 for a four-year term.

20 "At the expiration of terms of office of the
21 respective original trustees elected under this subdivision
22 and every four years thereafter, their successors shall be
23 elected in the same manner as provided by this subdivision.

24 "(7) One member from the ranks of retired state
25 employees and one member from the ranks of retired employees
26 of a city, a county, or a public agency each of whom is an
27 active beneficiary of the system shall be elected by a

1 majority vote of the participating retired beneficiaries of
2 the system. The retired state employee member shall serve for
3 a four-year term beginning October 1, 1984, the member who is
4 a retired employee of a city, a county or a public agency
5 shall serve for a three-year term, beginning October 1, 1984,
6 provided after the expiration date of the initial terms
7 provided in this subdivision each term shall be for a period
8 of three years. The retired state employee elected to serve
9 the term beginning on October 1, 2024, and each retired state
10 employee elected to serve thereafter, shall serve a term of
11 four years. The retired employee of a city, county, or public
12 agency elected to serve the term beginning on October 1, 2023,
13 and each retired employee of a city, county, or public agency
14 elected thereafter, shall serve a term of four years.

15 "The retired members shall be elected in a statewide
16 ballot conducted by the Secretary-Treasurer under rules
17 promulgated by the Board of Control. The Board of Directors of
18 the Alabama Retired State Employees' Association shall submit
19 no more than two nominations for each retired member position.
20 The Board of Control shall determine the procedure for
21 selecting additional candidates. The ballots shall be
22 conducted prior to October 1, 1984, and each applicable year
23 thereafter in order that the trustees can take office by
24 October 1, next following such election.

25 "(8) a. Two Four members of the retirement system who
26 ~~shall be~~ are employed by or retired from an employer
27 participating pursuant to Section 36-27-6, ~~who~~ shall be

1 elected by a majority vote of the members of the retirement
2 system who are, as provided in this section, either the
3 full-time employees of those employers participating pursuant
4 to Section 36-27-6, and who are members of the system. For
5 their original terms one shall serve a three-year term and one
6 shall serve a four-year term. Thereafter, their The members of
7 the retirement system who are elected and their successors
8 each shall serve for a four-year term, except as provided to
9 achieve staggered terms. The four members of the retirement
10 system elected pursuant to this subdivision shall include:

11 "1. Effective with the election following the
12 conclusion of the term of office held by the trustee in office
13 on the effective date of this act and elected to a term ending
14 September 30, 2022, as provided by this subdivision, one
15 member of the retirement system who is a full-time employee of
16 a participating municipality or city shall be elected by a
17 majority vote of the full-time employees of the participating
18 municipalities or cities.

19 "2. One member of the retirement system who is a
20 full-time employee of a participating county shall be elected
21 by a majority vote of the full-time employees of the
22 participating counties. The original term of office shall
23 begin immediately after the individual has been elected and
24 taken the oath of office and, in order to achieve staggered
25 terms, the original term shall expire on September 30, 2026.

26 "3. One member of the retirement system who is a
27 full-time employee or retiree of an entity participating

1 pursuant to Section 36-27-6, shall be elected by a majority
2 vote of the full-time employees and retirees of the
3 participating entities. The original term of office shall
4 begin immediately after the individual has been elected and
5 taken the oath of office and, in order to achieve staggered
6 terms, the original term shall expire on September 30, 2025.

7 "4. Effective with the election following the
8 conclusion of the term of office held by the trustee in office
9 on the effective date of this act and elected to a term ending
10 September 30, 2023 as provided by this subdivision, one member
11 of the retirement system who is a full-time employee of an
12 entity participating pursuant to Section 36-27-6, other than a
13 municipality, city, or county, shall be elected by a majority
14 vote of the full-time employees of those participating
15 entities.

16 "b. The ~~election~~ elections shall be conducted by the
17 Secretary-Treasurer through use of a statewide ballot in
18 accordance with rules ~~promulgated~~ adopted by the Board of
19 Control, which shall include a nomination petition of not less
20 than 50 eligible voters. The election provided herein in
21 subparagraph 2. shall be conducted prior to October 1, 1991
22 2022., and each The election provided in subparagraph 3. shall
23 be considered prior to October 1, 2021. Each applicable year
24 thereafter, all elections shall be conducted in the manner set
25 forth in this subdivision in order that the trustees can take
26 office October 1, next following such election.

1 "(c) If a vacancy occurs in the office of a trustee,
2 the vacancy shall be filled for the unexpired term in the same
3 manner as the office was previously filled, except that of the
4 trustees elected under subdivision (7) of subsection (b). In
5 that event the vacancy for the unexpired term shall be filled
6 by an appointment by the Board of Control of the Employees'
7 Retirement System from a list of three retired employees
8 furnished him by the Board of Directors of the Alabama Retired
9 State Employees' Association. Provided, however, a trustee who
10 retires from active service after the trustee's appointment or
11 election may continue to serve until the expiration of the
12 term as described in this section.

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

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

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

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

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

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

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

22 "(j) The Board of Control shall keep a record of all
23 its proceedings which shall be open to public inspection. It
24 shall publish annually a report showing the fiscal
25 transactions of the retirement system for the preceding year,
26 the amount of the accumulated cash and securities of the
27 system and the last balance sheet showing the financial

1 condition of the system by means of an actuarial valuation of
2 the assets and liabilities of the retirement system.

3 "(k) The Attorney General of the state shall be the
4 legal adviser of the Board of Control.

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

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

21 "(n) Immediately after the establishment of the
22 retirement system the actuary shall make such investigation of
23 the mortality, service and compensation experience of the
24 members of the system as he shall recommend and the Board of
25 Control shall authorize, and, on the basis of such
26 investigation, he shall recommend for adoption by the Board of
27 Control such tables and such rates as are required in

1 subsection (o) of this section. The Board of Control shall
2 adopt tables and certify rates and, as soon as practicable
3 thereafter, the actuary shall make a valuation based on such
4 tables and rates of the assets and liabilities of the funds
5 created by this article.

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

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

21 Section 2. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.