ACT 2013 - 385

HB533

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By Representative Wren (N & P)

RFD: Montgomery County Legislation

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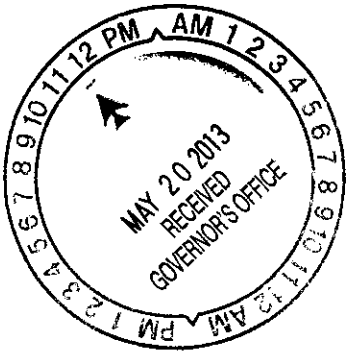

ENROLLED, An Act,

Relating to the Employees' Retirement System of the City of Montgomery; to combine, amend, and restate Act 2009-473, 2009 Regular Session (Acts 2009, p. 839), as amended, to change the retirement age, creditable service requirements, distribution options, employee contributions, and benefits for certain employees who become members of the system on or after October 1, 2013; to implement a new cash balance plan for certain employees who become members of the system on or after October 1, 2013, to provide certain employees who were members of the system before October 1, 2013, an option to elect to participate in the new cash balance plan, to authorize the board, with the mayor's approval, to increase the number of years of creditable service to qualify for a disability retirement allowance or eliminate the disability retirement under any or all of the retirement plans; to eliminate certain historical information no longer necessary; to clarify the board's authority to hire outside legal advisors and auditors; to provide minimum qualifications for the auditors hired by the system; to add provisions required to comply with the Internal Revenue Code; to update the method of calculating the contributions by the city; to eliminate certain provisions dealing with mandatory

retirement; and to define and redefine certain terms applicable to the system.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Definitions. The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "System" shall mean the Employees' Retirement System of the City of Montgomery, as defined in Section 2.

(2) "City" shall mean the City of Montgomery, Alabama, with respect to its employees, and any board or boards of the city now existing or hereafter created and duly authorized by the council to participate in the system with respect to its employees.

(3) "Council" shall mean the duly elected Council Members of the City (hereinafter sometimes referred to as Councilors).

(4) "Board" shall mean the board of trustees of the system provided for in Section 5B to administer the system, but shall not include the investment trustee.

(5) "Medical Board" shall mean the board of physicians provided for in Section 5D.

(6) "Employee" shall mean any regular and permanent officer or employee of the city, whether full time or part time, including elected or appointed officials, the Mayor and

councilors, and the regular employees of any board or commission of the city other than the Water Works and Sanitary Sewer Board, and any person or persons employed by the city and performing the duties of a regular employee in the service of the city, but shall not include anyone who is paid on a fee or commission basis.

(7) "Member" shall mean any person included in the membership of the system as provided in Section 3.

(8) "Service" shall mean service in the employment of and paid for by the city.

(9) "Membership service" shall mean service as a member for which credit is allowable as provided in subsection (1) of Section 4.

(10) "Creditable service" shall mean total membership service plus any prior service allowed under this act.

(11) "Retirement allowance" shall mean annual payments, payable in monthly installments, continuing to the last payment prior to death.

(12) "Beneficiary" shall mean any person in receipt of a retirement allowance or other benefit as provided by the system.

(13) "Accumulated contributions" shall mean the sum of the balance to a member's credit in the annuity savings account as of December 31, 1968, plus all the amounts deducted

thereafter from his or her compensation and credited to his or her individual account.

(14) "Earnable compensation" shall mean the full rate of compensation that would be payable to a member if he or she worked the full normal working time. Earnable compensation shall not include overtime pay. In cases where compensation includes maintenance, the board shall fix the value of the part of compensation not paid in money. Compensation in excess of $200,000.00 shall be disregarded for all purposes under this act. The amount shall be adjusted at the same time and in the manner as permitted under Section 401(a)(17) of the Internal Revenue Code.

(15) "Average final compensation" shall mean (a) with respect to members of the 20-Year Plan and the 25-Year Plan, the earnable compensation of a member during the highest 12 consecutive months of the 60-month period immediately preceding his or her retirement date and (b) with respect to members of the Group II Age 62 Plan, the earnable compensation of a member during the highest 36 consecutive months of the 120-month period immediately preceding his or her retirement date. If at any time prior to or during the 60-month or 120-month period, as applicable, immediately preceding his or her retirement date, a member served in a part-time capacity, average final compensation, creditable service, and the

retirement allowance shall be determined in accordance with the rules and regulations adopted by the board.

(16) "Equivalent actuarial value" shall mean equal value when computed (a) for purposes of determining the service retirement allowance under subsection (1)(b)(iii) of Section 6, the applicable mortality table as specified under Section 417(e) of the Internal Revenue Code and the interest rate used for interest credits for the applicable year and (b) for other purposes, the regular interest rate and mortality tables last adopted by the board.

(17) "Operative date" shall mean the date the system began operation as provided in Section 2.

(18) "Investment trustee" shall mean each of the banks or other recognized advisory service or services that the board of trustees selects. Each investment trustee shall have the powers and duties prescribed by Section 5A. The board of trustees may terminate the services of any investment trustee upon thirty (30) days' written notice to the trustee, and each trustee may likewise terminate its services upon thirty (30) days' written notice to the board. After receipt of the notice by either party the investment trustee concerned shall make an accounting within forty-five (45) days of the receipt of the notice.

(19) "ERIP option" shall mean the optional election available to a member pursuant to Section 15.

(20) "ERIP calculation date" shall mean the first day of the ERIP election period.

(21) "ERIP election period" shall mean the period of exactly one (1), two (2) or three (3) years ending on a member's actual retirement date. The ERIP election period shall include only years actually worked by the member after the ERIP eligibility date plus any buy-back years for military service.

(22) "ERIP eligibility date" shall mean the date a member is credited with 20 or more years of creditable service or 25 or more years of creditable service, as applicable pursuant to subsection (1) of Section 6, including buy-back years purchased prior to January 1, 2005, but excluding buy-back years purchased on or after January 1, 2005, or years earned prior to a member's rehire date unless membership in the system was retained until the rehire date.

(23) "Group I 20-Year Plan" shall mean the retirement plan for each member in Group I or I-A who (a) became a member of the system prior to October 1, 2005, (b) did not elect to participate in the Group I 25-Year Plan, and (c) does not elect to participate in the Group I Cash Balance Plan.

(24) "Group I 25-Year Plan" shall mean the retirement plan for each member in Group I or I-A who (a) became a member of the system on or after October 1, 2005, but

before October 1, 2013, or elected to participate as if he or she became a member on or after October 1, 2005, but before October 1, 2013, and (b) does not elect to participate in the Group I Cash Balance Plan.

(25) "Group I Cash Balance Plan" shall mean the retirement plan for each member in Group I or I-A who becomes a member of the system on or after October 1, 2013, or elects to participate as if he or she became a member of the system on or after October 1, 2013.

(26) " Group II 20-Year Plan" shall mean the retirement plan for each member in Group II who (a) became a member of the system prior to October 1, 2005, and (b) did not elect to participate in the Group II 25-Year Plan.

(27) "Group II 25-Year Plan" shall mean the retirement plan for each member in Group II who (a) became a member of the system on or after October 1, 2005, but before October 1, 2013, or (b) elected to participate as if he or she became a member on or after October 1, 2005, but before October 1, 2013.

(28) " Group II Age 62 Plan" shall mean the retirement plan for each member in Group II who becomes a member of the system on or after October 1, 2013.

(29) "20-Year Plan" shall mean the Group I 20-Year Plan and the Group II 20-Year Plan collectively.

(30) "25-Year Plan" shall mean the Group I 25-Year Plan and the Group II 25-Year Plan collectively.

(31) "Early retirement factor" shall mean the early retirement factor set forth in subsection (1)(c)(iii) of Section 6.

(32) "Annuity starting date" shall mean, with respect to a person, the first day of the first period for which an amount is paid as an annuity, or, in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitles the person to the benefit.

(33) "Pre-cash balance accumulated contributions" shall mean with respect to an elective cash balance plan member, the accumulated contributions credited to his or her individual account while a member of the applicable previous plan.

(34) "Cash balance accumulated contributions" shall mean with respect to a member in the Group I Cash Balance Plan, the accumulated contributions credited to his or her individual account while a member of the Group I Cash Balance Plan.

(35) "Cash balance account" shall mean the hypothetical account established for a member in the Group I Cash Balance Plan to receive pay credits and interest credits.

(36) "Pay credits" shall mean the allocations made to a member's cash balance account pursuant to subsection (1)(d) of Section 6.

(37) "Interest credits" shall mean the interest that is credited to a person's cash balance account pursuant to subsection (1)(f) of Section 6. The interest rate used for accumulating a member's cash balance account as determined by the board shall not exceed a market rate of return, and regardless of the rate elected, an interest credit of less than zero shall in no event result in the balance being less than the aggregate amount of contributions credited to the accounts.

(38) "Initial election date" shall mean with respect to a member, the earlier of (a) the date that the member elects to become a member of the Group I Cash Balance Plan or (b) the latest date for an initial election to become a member of the Group I Cash Balance Plan as set by the board.

(39) "Pre-election frozen benefit" shall mean the service retirement allowance or vesting retirement allowance, as applicable, a person would have received under the applicable previous plan based on his or her average final compensation and years of creditable service as of the date he or she becomes a member in the Group I Cash Balance Plan.

(40) "Applicable previous plan" shall mean with respect to an elective cash balance plan member, the plan that

the person was a member of immediately prior to electing to become a member of the Group I Cash Balance Plan.

(41) "Regular interest" shall mean interest at the per centum rate or rates compounded annually as shall be determined by the board from time to time.

(42) "Elective cash balance plan member" shall mean a member that is provided the option and elects to become a member in the Group I Cash Balance Plan in accordance with subsection (7) of Section 3.

(43) The masculine pronoun shall include the feminine pronoun.

Section 2. Name and Operative Date.

The board shall be responsible for the management of the system for the purpose of providing retirement allowances and other benefits under the provisions of this act for employees of the city. The system shall be a continuation of the retirement system established under Ordinance No. 1659, as amended prior to the effective date of this act, as the Employees' Retirement System of the City of Montgomery, under which name all of its business shall continue to be transacted, all of its funds shall continue to be invested, all warrants for money shall continue to be drawn and all payments made, and all of its cash and securities and other property shall continue to be held as hereinafter provided.

The operative date of the system shall continue to be the first day of June, 1959.

Section 3. Membership.

(1) Any person who is a member of the system at the time of the adoption of this act shall be a member of the system and in addition any person becoming an employee thereafter shall become a member of the system as a condition of his or her employment. Provided however, that any person who shall have become a member of and participate in the retirement program of the Employees Retirement System of the State of Alabama owing to the election of the Water Works and Sanitary Sewer Board of the city to become a participating employer respecting the state retirement program shall thereafter cease to be a member of the system. Any employee who is elected as a member of the council and who is a member of the system at the time of the election may elect to terminate his or her membership in the system at the time of his or her election by filing with the board on a form prescribed by the board a notice of his or her election to terminate his or her membership in the system, and a duly executed waiver of all prospective benefits which would otherwise inure to him or her as a member, the notice to be filed not later than the day on which he or she assumes his or her duties as a member of the city council. Any person who is elected as a member of the city council and who is not a

member at the time of his or her election shall become a member unless he or she elects in the manner set forth above not to become a member.

(2) Any employee whose membership in the system is contingent on his or her own election and who elects not to become a member may thereafter apply for and be admitted to membership.

(3) It shall be the duty of the city's Finance Department, and the corresponding departments of the city's Airport Authority, to submit to the board a statement showing the name, title, compensation, duties, date of birth and length of service of each member, and any information regarding other employees as the board may require, and on the basis thereof the board shall classify each member in one of the following groups:

Group I. General municipal employees.

Group I-A. Airport Employees.

Group II. Members of the Fire Department and the Police Department of the city, trained in fire fighting or police work and actively engaged in such work or subject to call for such services.

Upon written request, the board shall certify to the member the group in which he or she is placed and the date of his or her admission to membership therein. When the duties of a member so require, the board may classify him or her in

another group and shall certify to him or her the group to which he or she has been reclassified, except that no member having 15 or more years of service in one class may be so reclassified.

(4) Should any member be absent from service more than five consecutive years, or should he or she withdraw his or her accumulated contributions or die or retire under the provision of this act, he or she shall thereupon cease to be a member.

(5) Participants who were members of the system prior to October 1, 2005, were entitled to elect to have their then current service retirement allowance frozen and participate in the 25-Year Plan, provided that they had three or more years remaining until they attained the mandatory retirement age under the 25-Year Plan. Members who elected shall earn benefits prospectively for creditable service completed on and after October 1, 2005, or the first day of the next month following the filing of their election, whichever date is later, on the same basis as employees who become members on or after that date; and, for creditable service completed prior to October 1, 2005, or prior to the first day of the next month following the filing of their election, as the case may be, the electing member shall be entitled at retirement to such benefits for such creditable service based on the retirement allowance formula provided for

employees who became members prior to October 1, 2005, and did not elect to participate in the 25-Year Plan.

(6) Any employee who became a member prior to October 1, 2005, and did not elect to participate in the 25-Year Plan, upon the attainment of 25 years of creditable service may elect, during the three-month period immediately next following the attainment of 25 years of creditable service, to participate thereafter and prospectively in the 25-Year Plan. Members desiring to so elect must file with the board a written election on forms, and pursuant to rules and regulations, adopted by the board, prior to the expiration of the three-month period next following the member's attainment of 25 years of creditable service. Members who so elect shall be entitled at retirement to a retirement allowance for each year of creditable service in excess of 25 based on the benefit formula applicable to the member under the 25-Year Plan. The retirement allowance for each year of the initial 25 years of creditable service shall be based on the benefit formula applicable to the member under the 20-Year Plan. Otherwise, an electing member shall thereafter participate in the 25-Year Plan on the same basis as if the member were a post-October 1, 2005, employee.

(7) Each member in Group II that becomes a member of the system on or after October 1, 2013, including a previous member who ceased to be a member of the system and is

reemployed by the city, shall be a member in the Group II Age 62 Plan. Each member in Group I or I-A that becomes a member of the system on or after October 1, 2013, including a previous member who ceased to be a member of the system and is reemployed by the city, shall be a member in the Group I Cash Balance Plan. The effective date of participation for such persons in the Group I Cash Balance Plan shall be the date they become a regular and permanent officer or employee of the city, after the completion of any probationary period. The following shall have the option to elect to become a member in the Group I Cash Balance Plan: (1) each member in Group I or I-A that became a member of the system prior to October 1, 2013, and remains in active service through the initial election date, (2) each member that became a member of the system prior to October 1, 2013, ceased to be an employee prior to the initial election date, and subsequently returns to the status of a Group I or I-A employee while still a member of the system, and (3) each member that is reclassified as a Group I or I-A member after the initial election date. The elections shall be made in accordance with the procedures, rules, and regulations, and the time periods established by the board. If an eligible member fails to make a proper election to become a member in the Group I Cash Balance Plan in accordance with the procedures, rules, and regulations and before the deadline established by the board, the member shall

remain in the 20-Year Plan or 25-Year Plan, as applicable. The effective date of participation for a member electing to be a member in the Group I Cash Balance Plan shall be the date established by the board. All elections are irrevocable.

Section 4. Creditable Service.

(1) Each member shall receive membership service credit for all service rendered while a member of the system since he or she became a member, or since he or she last became a member in the event of a break in his or her membership, on account of which contributions are made by the member.

(2) Each member claiming prior service credit shall file a detailed statement of all service rendered by him or her prior to the date for which he or she is eligible to claim prior service credit, and other facts as the board may require for the proper operation of the system. The board shall fix and determine by appropriate rules and regulations how much service, if any, in any year is equivalent to a year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the board allow credit as service for any period of more than one month's duration during which the employee was absent without pay. The board shall verify, as soon as practicable after the filing of the statements of service, the service therein

claimed. Except as expressly limited herein, a member claiming prior service credit must claim all eligible prior service.

(3) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of his or her total membership service plus any prior service verified by the board pursuant to subsection (2) of this section.

(4) Anything in this act to the contrary notwithstanding, credit for any period of absence due to compulsory service in the armed forces of the United States shall be allowed as service credit as if such service had been service as an employee of the city, provided the employee returns to city service within ninety days after becoming entitled to an honorable discharge from the armed forces or within ninety days after hospitalization continuing after discharge for a period of not more than one year; and, provided further that the employee contributes and pays to the system a sum equal to the total contribution which he or she would have made had he or she remained in service during the leave less any amount actually contributed by the member for such period, as determined in accordance with rules and regulations adopted by the board. In the case of a death occurring on or after January 1, 2007, if a member dies while performing qualified military service (as defined in Section 414(u) of Internal Revenue Code), the survivors of the member

are entitled to any additional death benefits (other than benefit accruals relating to the period of qualified military service) provided under the retirement plan for which he or she was a member as if the member had resumed and then terminated employment on account of death. Anything herein to the contrary notwithstanding, credit for military leave shall be granted in compliance with all applicable federal laws, rules and regulations.

(5) Notwithstanding any other provisions of this act, an active and contributing member of the 20-Year Plan, the 25-Year Plan, or the Group II Age 62 Plan with prior employment with the State of Alabama as a state employee or as an employee of the public education system under the State Board of Education or an institution of higher education may purchase up to four years of creditable service in the system for the prior employment with the State of Alabama if the member claiming the prior employment credit has at least 10 years of contributing membership service credit, exclusive of military service credit, in the system and the member pays to the system prior to his or her date of retirement from active service a sum, for each year or partial year of service purchased, equal to the total contribution which he or she and the city would have made during the period for which he or she is claiming credit. The total contribution will be based on the annual income of the member at the time of payment and the

city's actuarial rate at the time of payment. A member is prohibited from purchasing credit under the aforementioned provisions for any prior service for which he or she has received credit toward a benefit from any other public retirement system except the federal Social Security program. The member has the responsibility of providing a statement from the Retirement Systems of Alabama that the member is not eligible for any state retirement benefits for the prior employment for which he or she is purchasing service credit and for wage statements covering the time period of the service credit being purchased.

(6) Any employee whose membership in the system was contingent upon his or her own election and who elected not to become a member, may apply for and be admitted to membership with all prior service credit at any time, provided the employee pays to the system a sum equal to the total contributions which he or she would have made as a member during his or her prior service; provided that the prior service credit shall not apply if the employee becomes a member of the Group I Cash Balance Plan.

(7) Any member of the 20-Year Plan, the 25-Year Plan, or the Group II Age 62 Plan, who at one time worked as a nonmember may receive credit for prior service and for the years worked as a nonmember, provided the member pays to the

system, a sum equal to the total contributions which he or she would have made as a member during his or her prior service

(8) Any member who ceased to be a member as a result of being absent from service for more than five consecutive years or as a result of withdrawing his or her accumulated contributions and thereafter becomes a contributing member of the 20-Year Plan, the 25-Year Plan, or the Group II Age 62 Plan shall be allowed credit for the previous service, provided he or she pays the system a sum equal to the total contribution he or she has withdrawn.

(9) Any law or part of law relating to the payment of interest on contributions as a prerequisite to the granting of credit for prior service under the system notwithstanding, any eligible employee, member or retired member who claims such prior service (including prior service claimed under subsections (6), (7), and (8) but excluding prior service claimed under subsections (4) and (5)) shall pay into the system in addition to the contributions required, interest of eight percent, compounded annually, on the contributions, as a prerequisite to the granting of the service credit. Interest shall be calculated in accordance with the rules and regulations established by the board.

(10) Anything in this act to the contrary notwithstanding, the employer cost for the granting of any service credit granted under the provisions of this act shall

become the continuing liability of the employer for whom the service was rendered.

Section 5. Administration.

A. Investment Trustee.

Each investment trustee shall be a state or federally chartered bank with not less than $500,000,000 in assets, bonded for not less than the amount of the board's assets held from time to time, and shall have the following powers and duties (but no other):

(1) To retain inventoried assets delivered to it by the board so long as the retention appears advisable, including the right to retain investments previously made in its stock, if any, by the board.

(2) To sell, exchange, assign, transfer and convey any security or property, real or personal (whether in the original inventory or acquired by purchase or otherwise), at public or private sale, at the time and price and upon the terms and conditions (including credit) as it may determine.

(3) To invest and reinvest in such stocks, bonds, and other securities and properties as it may deem advisable, including preferred stocks, common stocks, debentures, and unsecured obligations, undivided interests, interests in investment trusts, mutual funds, legal and discretionary common trust funds, and leases and property either inside or outside of Alabama.

(4) To register and carry any property in its own name or in the name of its nominee or to hold it unregistered but without thereby increasing or decreasing its liability as fiduciary.

(5) To vote in person or by proxy any stock or securities held and to grant the proxies and powers of attorney to the person or persons as it may deem proper. The board shall have the power to vote in person or by proxy any stock in each investment trustee.

(6) To consent to and participate in any plan for the liquidation, reorganization, consolidation or merger of any corporation, any stock or security of which is held.

(7) To receive reasonable compensation for its services either out of the fund administered by each investment trustee or from the board, the amount or method of computation and payment to be agreed upon between the board and each investment trustee.

(8) To receive funds or appropriations from the board or from the city to be held and administered hereunder, and to have custody of all investments delivered to it, subject to the directions of the board.

(9) To pay to the board on duly authorized vouchers such funds as may be required to make current monthly payments of retirement allowances and expenses.

(10) To invest and manage all assets delivered to the trustee by the board and/or city in a professional and prudent manner and exercising due care.

The powers and duties of each investment trustee shall apply from and after its selection by the board and delivery of assets to it, and no investment trustee shall have any duties in reference to or any liabilities for any acts or failures to act which occurred prior thereto.

B. Board of Trustees.

(1) Except for the powers and duties prescribed for the investment trustee, the general administration and the responsibility for the proper operation of the system and for making effective the provisions of this act are hereby vested in the board of trustees of the system.

(2) The board shall consist of nine voting trustees as follows: one shall be a member employee in the Police Department, one shall be a member employee in the Fire Department, one shall be a member employee classified as a general municipal employee, three may be either active or retired members of the retirement system, one shall be a retired member of the retirement system, and two may or may not be members of the system. The terms of office of all trustees so appointed shall be four years.

(3) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(4) The trustees shall serve without compensation.

(5) Each trustee shall, within ten days after his or her appointment, take an oath of office.

(6) Each trustee shall be entitled to one vote. Five trustees shall constitute a quorum and a vote of a majority of the trustees present at the meeting where a quorum is present shall be the act of the board.

(7) Subject to the limitations of this act, the board shall, from time to time, establish rules and regulations for the administration of the system and for the transaction of its business, including uniform standards for determining who are employees within the meaning of this act.

(8) The board shall elect from its membership a chairman and a vice chairman, and shall appoint a secretary who may or may not be a member of the board. The board may employ personnel for secretarial and other service as shall be required.

(9) The board shall keep in convenient form such data as shall be necessary for actuarial valuation of the system and for checking the experience of the system.

(10) The board shall keep a record of all of its proceedings, which shall be open to public inspection. It

shall submit to the council, annually, a report showing the fiscal transactions of the system for the preceding year, the amount of the accumulated cash and securities of the system, and the last balance sheet indicating the financial condition of the system as shown by an actuarial valuation of the assets and liabilities of the system.

C. Legal Advisor

The board shall designate an attorney or attorneys who shall be the legal advisor of the board on matters regarding the operation of the system and who shall perform such other duties as are required in connection therewith or as may be designated by the board from time to time.

D. Medical Board

The board shall designate a Medical Board of one, two or three physicians who are not eligible to participate in the system. The Medical Board shall arrange for and pass upon all medical examinations required under the provisions of this act, shall investigate all essential statements and certificates by or on behalf of a member in connection with application for disability retirement, and shall report in writing to the board its conclusions and recommendations upon all the matters referred to it.

E. Duties of Actuary

(1) The board shall designate an actuary who shall be the technical advisor of the board on matters regarding the

operation of the system and who shall perform such other duties as are required in connection therewith.

(2) The board shall certify from time to time the rates of contribution payable by the city and any other participating employers under the provisions of this act, and shall adopt for the system from time to time such mortality, service and other tables as shall be deemed necessary, and on the basis of such tables and the interest rate adopted by the board for the purpose of determining the city's and other participating employers' contributions to the system, the actuary shall make annually an actuarial valuation of the assets and liabilities of the system. At least once in each five-year period the board shall cause an actuarial investigation to be made into the mortality, service and compensation experience of the members and beneficiaries of the system.

F. Auditor

The board shall designate an independent accounting firm to perform the audits for the system and other duties as are required in connection therewith or as may be designated by the board from time to time. The accounting firm performing an audit for the system must meet the following minimum standards: meet the independence standards of the American Institute of Certified Public Accountants and the Department of Labor and provide evidence of professional liability

insurance satisfactory to the board. In addition, the accountant in charge of the audit must meet the following minimum standards: be a certified public accountant in good standing with the Alabama State Board of Public Accountancy, have an adequate knowledge of defined benefit plan accounting, and regularly engage in employee benefit plan audits.

Section 6. Benefits.

(1) Service Retirement Allowance.

(a) The minimum service retirement age shall be as follows:

(i) For a member in the Group I 20-Year Plan, the age at which he or she completes 20 years of creditable service or age 65, whichever occurs first.

(ii) For a member in the Group II 20-Year Plan, the age at which he or she completes 20 years of creditable service or age 62, whichever occurs first.

(iii) For a member in Group I 25-Year Plan, the age at which he or she completes 25 years of creditable service or age 62, whichever occurs first.

(iv) For a member in the Group II 25-Year Plan, the age at which he or she completes 25 years of creditable service or age 55, whichever occurs first.

(v) For a member in the Group II Age 62 Plan the age at which he or she completes 25 years of creditable service or

age 55 with at least 10 years of creditable service, whichever occurs first.

(vi) For a member in the Group I Cash Balance Plan, the age at which he or she completes 25 years of creditable service or age 62, whichever occurs first; provided, however, that with respect to an elective cash balance plan member with a pre-election frozen benefit attributable to the Group I 20-Year Plan, the minimum service retirement age for such pre-election frozen benefit shall be the age at which he or she completes 20 years of creditable service or age 65, whichever occurs first.

Any member in service who has attained his or her minimum service retirement age shall be retired by the board on a service retirement allowance upon his or her written application setting forth at what time not less than 30 nor more than 60 days next following the execution and filing thereof, he or she desires to be retired, notwithstanding that during the period of notification he or she may have separated from service. The member shall be entitled to such retirement allowance whether he or she voluntarily separates from service or is dismissed for cause or for any other reason. In the event the member is dismissed for cause or for any other reason, he or she shall be entitled to make application for and receive the retirement allowance hereinabove provided for upon his or her giving the written notice herein mentioned.

(b) The service retirement allowance of a member in Group I or I-A shall be as follows:

(i) For a member in the Group I 20-Year Plan, 2% of his or her average final compensation multiplied by the number of years of his or her creditable service not in excess of 20 plus 1% of such compensation for each year of creditable service in excess of 20 years, subject to a maximum of 60% of average final compensation.

(ii) For a member in the Group I 25-Year Plan, 2% of his or her average annual final compensation multiplied by the number of years of creditable service, subject to a maximum of 100% of average final compensation.

(iii) For a member in the Group I Cash Balance Plan, (A) the service retirement allowance that is the equivalent actuarial value of the member's cash balance account and (B) with respect to an elective cash balance plan member, an additional service retirement allowance or vesting retirement allowance, as applicable, equal to the member's pre-election frozen benefit.

(c) The service retirement allowance of a member in Group II shall be as follows:

(i) For a member in the Group II 20-Year Plan, 2 1/2% of his or her average final compensation multiplied by the number of years of his or her creditable service not in excess of 20 years plus 1% of such compensation for each year

of creditable service in excess of 20 years, subject to a maximum of 60% of average final compensation.

(ii) For a member in the Group II 25-Year Plan, 2 1/2% of his or her average final compensation multiplied by the number of years of creditable service, subject to a maximum of 100% of average final compensation.

(iii) For a member in the Group II Age 62 Plan, 2 1/2% of his or her average final compensation multiplied by the number of years of creditable service, subject to a maximum of 100% of average final compensation; provided that the service retirement allowance shall be reduced by an early retirement factor of 5/9% for each full month the annuity starting date precedes the member's 62nd birthday and the annuity starting date shall in no event be earlier than a member's 55th birthday.

(d) For each year, a member in the Group I Cash Balance Plan shall have the member's cash balance account credited for that year with a pay credit equal to the following amounts, which are inclusive of the member's contribution:

(i) For a member with less than 10 years of creditable service, 11% of the member's earnable compensation.

(ii) For a member with 10 or more years of creditable service, but less than 15 years of creditable service, 12% of the member's earnable compensation.

(iii) For a member with 15 or more years of creditable service, but less than 20 years of creditable service, 13% of the member's earnable compensation.

(iv) For a member with 20 or more years of creditable service, but less than 25 years of creditable service, 14% of the member's earnable compensation.

(v) For a member with 25 or more years of creditable service, 15% of the member's earnable compensation.

(e) The determination of the number of years of creditable service of a member under subsection (1)(d) of this section shall be determined as of the first day of each calendar year. The pay credit shall be credited as of the last day of the calendar year; provided, however, that if a member terminates employment during the calendar year, the member shall be entitled to a pay credit on the earnable compensation actually paid to the member prior to termination of employment as soon as administratively feasible following separation from service.

(f) For each calendar year continuing until the last day of the calendar year before the payment of benefits commence, each person's cash balance account shall be credited, whether or not the person remains an employee or member, with an interest credit determined by multiplying the dollar amount representing the balance of the person's cash balance account as of the first day of the calendar year and

all previous pay credits and interest credits, by the yield on 30-year Treasury constant maturities for the November immediately preceding such calendar year or such other interest crediting rate as determined by the board.

(g) Interest shall be credited as of the last day of the calendar year. However, a person shall receive a pro rata interest credit up to the date distributions commence and no interest shall be credited for any period after payment of benefits commence.

(h) Notwithstanding anything in subsection (1) of this section, the board, with the approval of the mayor, may change the amount of pay credits allocated to members' cash balance accounts under subsection (1)(d) of this section and/or change the interest credits allocated to members' cash balance accounts under subsection (1)(f) of this section; provided that any change in the interest credits will not affect previously allocated interest credits and any change in the pay credits will not affect previously allocated pay credits.

(1.1) Spousal Benefit

(a) If any active member in the 20-Year Plan who has been credited with 20 or more years of creditable service should die, his or her surviving spouse, as hereinafter defined, shall be entitled to a death benefit, provided the spouse is the designated beneficiary.

(b) If any active member in the 25-Year Plan who has been credited with 25 or more years of creditable service should die, his or her surviving spouse, as hereinafter defined, shall be entitled to a death benefit, provided the spouse is the designated beneficiary.

(c) If any active member in the Group II Age 62 Plan who has been credited with 25 or more years of creditable service should die, his or her surviving spouse, as hereinafter defined, shall be entitled to a death benefit payable at such time as the deceased member would have otherwise been entitled to commence payment under the Group II Age 62 Plan if he or she had terminated on the day of his or her death and survived through the annuity starting date, provided the spouse is the designated beneficiary. In accordance with the rules and procedures established by the board, the surviving spouse may elect an annuity starting date that is any date after the deceased member would have otherwise been entitled to commence payment.

(d) If any active member in the Group I Cash Balance Plan who has been credited with 10 or more years of creditable service should die, his or her surviving spouse, as hereinafter defined, shall be entitled to a death benefit, provided the spouse is the designated beneficiary.

(e) Surviving Spouse as used in this subsection shall mean the legally married spouse of the member on the date of his or her death.

(f) No death benefit shall be payable if the deceased member is not survived by a spouse at the annuity starting date or the surviving spouse is not the designated beneficiary.

(g) The death benefit shall be as follows:

(i) With respect to a member in the 25-Year Plan or the 20-Year Plan, the monthly income, payable for the life of the surviving spouse equal to the service retirement allowance that would have been payable to the member's surviving spouse if he or she had retired on the day immediately preceding his or her death, selected the 50% survivorship option, and designated his or her surviving spouse as beneficiary.

(ii) With respect to a member in the Group II Age 62 Plan, the monthly income, payable for the life of the surviving spouse equal to the service retirement allowance that would have been payable to the member's surviving spouse if he or she terminated employment on the day of his or her death, survived through the annuity starting date, selected the 50% survivorship option, designated his or her surviving spouse as beneficiary, and died the day after the annuity starting date. The monthly income will be calculated using any

applicable early retirement factor that would have otherwise applied to the member at the annuity starting date.

(iii) With respect to a member in Group I Cash Balance Plan, (A) 50% of the member's cash balance account, payable in one lump sum payment in cash and (B) with respect to an elective cash balance plan member an additional death benefit equal to the death benefit that such person would have received under the applicable previous plan, if any, based on the member's pre-election frozen benefit.

(h) Notwithstanding and in lieu of the death benefits set forth in subsection (1.1)(g) (i) and (ii) above, the surviving spouse may elect to receive on demand a lump sum payment equal to the member's accumulated contributions at the date of his or her death.

(i) Notwithstanding and in lieu of the death benefit set forth in subsection (1.1)(g)(iii)(A) above, the surviving spouse may elect to receive on demand a lump sum payment equal to the member's cash balance accumulated contributions at the date of his or her death.

(j) Notwithstanding and in lieu of the death benefit set forth in subsection (1.1)(g)(iii)(B) above, the surviving spouse may elect to receive on demand a lump sum payment equal to the member's pre-cash balance accumulated contributions at the date of his or her death.

(2) Disability Retirement Allowance

(a) Any member in the 20-Year Plan or 25-Year Plan in service and who has had 5 years or more of creditable service and any member in the Group II Age 62 Plan in service and who has had 10 years or more of creditable service may be retired for disability upon application of the member to the board and upon recommendation of the head of the division in which the member is employed, provided he or she meets the following requirements:

(i) The Medical Board after medical examination of the member shall certify that he or she is mentally or physically incapacitated for the further performance of duty; that the incapacity is likely to be permanent; and that the member should be retired for physical or mental disability.

(ii) The disability did not result from service in the armed forces of the United States, chronic alcoholism, addiction to narcotics, intentionally self-inflicted injuries, or injuries received while committing a felony.

(iii) Except for temporary and/or partial disability workers' compensation benefits, medical payments and educational or training benefits, he or she is not receiving and has not received any payments for such disability from the city under workers' compensation or any other type of employer-provided payment for disability payable from the participating employer's general or self-insured funds; provided, however, that in the event the employee is entitled

to any other benefits from the city or any of its boards he or she may elect by filing with the board up to the time of the commencement of the benefits, his or her choice of the two benefits. In the event he or she chooses not to accept benefits under the system he or she shall withdraw his or her accumulated contributions in a lump sum.

(b) The disability retirement allowance shall be computed as a service retirement allowance on the basis of his or her average final compensation and creditable service at disability retirement and shall not be reduced by any early retirement factor.

(c) Should a member in the 20-Year Plan or the 25-Year Plan with 5 or more years of creditable service become disabled under circumstances which fail to meet the requirements set forth in (i), (ii), and (iii) of subsection (2) (a) of this section, he or she may elect in lieu of a return of his or her accumulated contributions as provided under subsection (4) (a) of this section, to receive a deferred retirement allowance commencing at such age as he or she would be eligible to receive a vesting retirement allowance.

(d) No member shall be entitled to a disability retirement allowance unless he or she meets the requirements of (i), (ii), and (iii) of subsection (2)(a) of this section,

regardless of whether the member is eligible for benefits for total (100%) disability under the federal system guidelines.

(e) Notwithstanding anything in subsection (2) of this section, the board, with the approval of the mayor, may increase the number of years of creditable service required to qualify for a disability retirement allowance under any or all of the retirement plans or eliminate the disability retirement allowance altogether for any or all of the retirement plans. If the disability retirement allowance is eliminated, members will be entitled to a vesting retirement allowance or service retirement allowance as applicable provided they meet the requirements for such retirement allowance.

(f) If a member of the Group I Cash Balance Plan terminates employment due to disability, he or she shall not be entitled to a disability retirement allowance attributable to the member's cash balance account but shall be entitled to a vesting retirement allowance or service retirement allowance as applicable provided that he or she meets the requirements for such retirement allowance at the time of his or her disability; provided, however, that an elective cash balance plan member who would have qualified for a disability retirement allowance under the applicable previous plan if he or she had remained a member of the applicable previous plan shall be entitled to a disability retirement allowance

computed as a service retirement allowance on the basis of his or her pre-election frozen benefit.

(3) Vesting Retirement Allowance

(a) Should any member in the 20-Year Plan or the 25-Year Plan be or have been involuntarily separated from service for any cause other than fault or delinquency on his or her part after having completed ten or more years of creditable service, he or she may elect to receive a deferred retirement allowance commencing twenty years for members of the 20-Year Plan or twenty-five years for members of the 25-Year Plan, as applicable pursuant to subsection (1) of this section, from the beginning of creditable service with the city or age 50, whichever occurs first. Failure of reelection of a member elected by vote of the people shall not be construed as fault or delinquency on the part of the member.

(b) Anything herein to the contrary notwithstanding, any member separating from service after having completed ten or more years of creditable service but prior to qualifying for a service retirement allowance, may elect to receive a deferred retirement allowance commencing as follows:

(i) For a member in the Group I 20-Year Plan, at the age of 65.

(ii) For a member in the Group II 20-Year Plan, at the age of 62.

(iii) For a member in the Group I 25-Year Plan, at the age of 62.

(iv) For a member in the Group II 25-Year Plan, at the age of 55.

(v) For a member in the Group II Age 62 Plan, the age of 62.

(vi) For a member in the Group I Cash Balance Plan, (A) with respect to the vesting retirement allowance attributable to the member's cash balance account as set forth in subsection (3)(c)(iii)(A) of this section, the age of 62 and (B) with respect to the vesting retirement allowance attributable to an elective cash balance plan member's pre-election frozen benefit as set forth in subsection (3)(c)(iii)(B), if any, at such time as the vesting retirement allowance would have been paid under the applicable previous plan.

Any member who separates from service without completing ten years of creditable service or qualifying for a disability retirement allowance shall not receive any vesting retirement allowance and shall only be entitled to receive the amount of his or her accumulated contributions under the provisions of subsection (4)(a) of this section.

(c) The vesting retirement allowance shall be computed as follows:

(i) For a member in the 20-Year Plan or the 25-Year Plan, as a service retirement allowance on the basis of the member's average final compensation and creditable service at the time of separation from service.

(ii) For a member in the Group II Age 62 Plan, as a service retirement allowance on the basis of the member's average final compensation and creditable service at the time of separation from service.

(iii) For a member in the Group I Cash Balance Plan, (A) as a service retirement allowance that is the equivalent actuarial value of the member's cash balance account and (B) with respect to an elective cash balance plan member, an additional vesting retirement allowance equal to the member's pre-election frozen benefit.

(d) Notwithstanding the foregoing the member may at any time prior to the commencement of his or her vesting retirement allowance revoke such election and receive in lieu of such benefits the amount of his or her accumulated contributions under the provisions of subsection (4)(a) of this section. In the event of the death prior to the commencement of the vesting retirement allowance of a member who has made the election provided for herein, the amount of his or her accumulated contributions shall be paid under the provisions of subsection (4)(b) of this section in lieu of any other benefit provided for in this section.

(4) Return of Contributions or Cash Balance Account

(a) Should a member cease to be an employee for any reason and not be awarded a retirement allowance, he or she shall be paid on demand his or her accumulated contributions. Notwithstanding and in lieu of the vesting retirement allowance set forth in subsection (3)(c) (i) and (ii) of this section, the member may elect to receive on demand a lump sum payment equal to the member's accumulated contributions. Notwithstanding and in lieu of the vesting retirement allowance set forth in subsection (3)(c)(iii)(A) of this section, the member may elect to receive on demand a lump sum payment equal to the greater of the member's cash balance account or his or her cash balance accumulated contributions. Notwithstanding and in lieu of the vesting retirement allowance set forth in subsection (3)(c)(iii)(B) of this section, the member may elect to receive on demand a lump sum payment equal to the member's pre-cash balance accumulated contributions.

(b) Upon the receipt of proof, satisfactory to the board, of the death of a member and that the member's beneficiary is not eligible for a spousal benefit under subsection (1.1) of this section, his or her accumulated contributions shall be paid to the person, if any, as he or she shall have nominated by written designation duly

acknowledged and filed with the board if the person survives him or her, otherwise to the estate of the member.

(5) Reexamination of Beneficiaries Retired on Account of Disability

(a) The board may at any time and as often as it sees fit, not in excess of once in each 12 months, require any beneficiary receiving a retirement allowance due to a disability to undergo a medical examination if he or she has not yet attained his or her minimum service retirement age, the examination to be made at the place of residence of the beneficiary, the office of a physician selected by the board, or other place mutually agreed upon. Should the beneficiary refuse to submit to the medical examination his or her retirement allowance may be discontinued by the board until his or her withdrawal of the refusal, and should his or her refusal continue for over one year, all his or her rights in and to that portion of his or her retirement allowance which is provided by the contributions of the city may be revoked by the board.

(b) In the event a member who is receiving a retirement allowance due to a disability secures gainful employment, including employment with the city, paying more than the difference between his or her retirement allowance and his or her average final compensation, the amount of his or her retirement allowance shall be reduced to an amount

which, together with the amount earnable by him or her, shall equal the amount of his or her average final compensation but, in no event, to an amount less than the portion of his or her allowance provided by his or her accumulated contributions. Should his or her earning capacity be later changed, the amount of his or her retirement allowance may be further modified in like manner. Any member receiving a retirement allowance due to a disability shall advise the board of any gainful employment. The board may make an investigation at any time in reference to any gainful employment of any retired member, up to the time he or she attains his or her minimum service retirement age, and the member shall answer any question and furnish information, including copies of federal income tax returns, as the board may require. In the event that the member fails or refuses to comply with the board's request, then his or her retirement allowance may be discontinued by the board until his or her withdrawal of the refusal, and should his or her refusal continue for over one year, all his or her rights in and to that portion of his or her retirement allowance which is provided by the contributions of the city may be revoked by the board.

(6) Restoration of Beneficiaries to Membership

Should a member receiving a retirement allowance due to a disability be restored to or be in service at a compensation equal to or greater than his or her average final

compensation at retirement, or should any other beneficiary be restored to service, his or her retirement allowance shall cease, any election of an optional benefit shall become void, he or she shall again become a member of the system as a member of the retirement plan from which he or she was receiving the disability allowance and shall contribute thereafter at the then prevailing rate. An amount equal to the actuarial reserve held for the part of his or her retirement allowance provided by his or her contributions shall be credited to him or her as accumulated contributions. Any creditable service to which he or she was entitled when he or she retired shall be restored to him or her, and upon subsequent retirement his or her retirement allowance shall be based on his or her compensation and creditable service before and after the period of prior retirement; provided that if he or she does not complete three years of creditable service after his or her restoration to service, the part of his or her retirement allowance upon subsequent retirement payable with respect to creditable service rendered before the period of his or her previous retirement shall be equal to his or her previous retirement allowance with all of the provisions of any option restored, if one was elected, with respect to such part of his or her retirement allowance.

(7) Optional Allowances

Until the date of his or her retirement and, in the case of a member eligible for a vesting retirement allowance, the date as of which the allowance is to commence, any member may elect to convert the retirement allowance otherwise payable to him or her into a modified retirement allowance of equivalent actuarial value in accordance with one of the optional forms named below. The election shall become effective on the member's retirement date or the date as of which his or her vesting retirement allowance is to commence, as the case may be.

Option 1. A reduced retirement allowance payable during the life of the retired member, with the provision that if he or she dies before he or she has received in payments of his or her allowance the amount of his or her accumulated contributions at the time of his or her retirement, the balance of such amount shall be paid to the person, if any, as he or she shall have nominated by written designation duly acknowledged and filed with the board if the person survives him or her, otherwise to the retired member's estate; or

Option 2. A reduced retirement allowance payable during the life of the retired member, with the provision that upon his or her death his or her reduced retirement allowance shall be continued throughout the life of and paid to such person as he or she shall have nominated by written

designation duly acknowledged and filed with the board at the time of retirement; or

Option 3. A reduced retirement allowance payable during the life of the retired member, with the provision that upon his or her death one-half of his or her reduced retirement allowance shall be continued throughout the life of and paid to such person as he or she shall have nominated by written designation duly acknowledged and filed with the board at the time of retirement; or

Option 4. A reduced retirement allowance payable during the life of the retired member, with the provision that upon his or her death some other benefit shall be payable, provided that the total value of the allowance during his or her life and the succeeding benefit shall be computed to be of equivalent actuarial value to the retirement allowance which he or she would receive without optional modification and provided that the benefit shall be approved by the board.

Option 5. With respect to members of the Group I Cash Balance Plan only and only with respect to the retirement allowance attributable to the cash balance account, one lump-sum payment in cash equal to his or her cash balance account. An elective cash balance plan member may receive his or her retirement allowance attributable to the cash balance account in one lump-sum payment in cash and also receive his or her retirement allowance attributable to the pre-election

frozen benefit in accordance with one of the other forms of payment permitted under this act.

(7.1) Anything herein to the contrary notwithstanding, a member may elect to convert the retirement allowance otherwise payable to him or her into a modified retirement allowance of equivalent actuarial value in accordance with one of the optional forms named in subsection (7) of this section.

Whenever any member has elected an optional allowance and has nominated his or her spouse to receive all amounts and benefits payable on or after the member's death as a result of the election, the member may revoke the election any time after the death of the spouse or the entry of a final judgment and complete divorce from the spouse so nominated. Upon revocation, the member shall return to the single lifetime only retirement allowance otherwise payable to him or her. The revocation shall be effective on the first day of the month following the month in which the revocation is filed with the board and once filed shall be final and irrevocable. Beneficiary elections and changes to the election, if allowed by the board, shall be made in accordance with the policies and procedures established by the board.

(8) Preservation of Benefits Accrued Under the System Prior Hereto

Anything herein contained to the contrary notwithstanding, the retirement allowance payable under the system to a member immediately prior to the effective date of this act, who continued without a break in membership to his or her retirement date or termination of employment entitling him or her to a benefit hereunder, shall not be less than the benefit which would otherwise be payable to him or her under the system as in effect prior to the effective date of this act, based on his or her creditable service to and his or her compensation earned prior to the effective date of this act.

(9) The payment of benefits shall begin no later than the 60th day after the close of the calendar year in which the latest of the following events occur: (a) the date on which the former employee attains the earlier age of 65 or his or her minimum service retirement age specified in the act; (b) the 10th anniversary of the year in which the employee or former employee became a member of the system; or (c) the date the member employee's employment with the city is terminated. All distributions will be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code

(10) The maximum amount payable to a member under the system in any calendar year when expressed as a straight life annuity commencing at normal retirement age shall be $160,000.00. The dollar limitations shall be adjusted annually as provided in Section 415(d) of the Internal Revenue Code

pursuant to the regulations, effective as of January 1 of each calendar year. The limitations, adjustments, definitions, special rules, and other requirements prescribed by this act shall at all times comply with the provisions of Section 415 of the Internal Revenue Code and the regulations thereunder as applicable to government plans, the terms of which are specifically incorporated herein by reference.

(11) Notwithstanding any provision of this act to the contrary, a distributee may elect, at the time and in the manner prescribed by the board, to have any eligible rollover distribution, or any portion of an eligible rollover distribution, paid directly to an eligible retirement plan specified by the distributee in a direct rollover in accordance with Section 402(c) of the Internal Revenue Code.

Section 7. All of the assets of the system shall be credited, according to the purpose for which they are held, among three accounts, namely, the Members' Account, the Accumulation Account and the Expenses Account.

(1) Members' Account.

(a) The Members' Account shall be the account in which shall be held the accumulated contributions of members. The Member's Account shall include accumulated contributions under the applicable previous plan.

(b) The city shall cause to be deducted from the compensation of each member on each and every payroll for each and every payroll period the following:

(i) For each member in the Group I 20-Year Plan, 6% of his or her earnable compensation.

(ii) For each member in the Group I 25-Year Plan, 6% of his or her earnable compensation.

(iii) For each member in the Group II 20-Year Plan, 6% of his or her earnable compensation.

(iv) For each member in the Group II 25-Year Plan, 6% of his or her earnable compensation.

(v) For each member in the Group I Cash Balance Plan, 6% of his or her earnable compensation.

(vi) For each member in the Group II Age 62 Plan, 7% of his or her earnable compensation.

Notwithstanding the foregoing, the mayor, with the approval of the board, may increase the member contribution amount for any or all of the plans by up to one percent annually not to exceed eight percent of the member's earnable compensation. In determining the amount earnable by a member in a payroll period, the board may consider the rate of compensation payable to the member on the first day of a payroll period as continuing throughout the payroll period, and it may omit deduction from compensation of any period less than a full payroll period.

(c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his or her full salary or compensation, and payment of salary or compensation less the deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to the benefits provided under this act.

(d) The proper authority or officer responsible for making up the payroll shall certify to the board the amounts deducted on each and every payroll, and each of the amounts shall be paid into the Members' Account and credited to the individual account of the member from whose compensation the deduction was made.

(e) The accumulated contributions of a member paid upon his or her death or withdrawn by him or her, as provided in this act, shall be paid from the Members' Account. Upon the retirement of a member or other commencement of benefits hereunder, his or her accumulated contributions shall be transferred from the Members' Account to the Accumulation Account.

(2) Accumulation Account.

(a) The Accumulation Account shall be the account in which shall be accumulated all contributions made by the city to provide benefits under the system and from which shall be paid all retirement allowances and other benefits under the system, other than those payable from the Members' Account.

Regular Contributions by the City

(b) On account of each member there shall be paid annually into the Accumulation Account a certain percentage of the compensation of each member to be known as the normal contribution, and an additional percentage of his or her compensation to be known as the accrued liability contribution. The rates per centum of the contribution shall be fixed on the basis of the liabilities of the system as shown by actuarial valuation.

(c) The normal contribution rate shall be determined after each actuarial valuation. The normal contribution rates shall be determined, on the basis of regular interest and the tables last adopted by the board, as the uniform and constant percentages of the compensation of Group I and Group I-A, or Group II members, as the case may be, which, if contributed on the basis of the prospective compensation of such members throughout their entire period of active service, would be sufficient to provide for the payment of the portion of any retirement allowance or other benefit payable on their account

not provided by his or her own contributions and accumulated in total past service liabilities.

(d) The accrued liability contribution rates shall be computed as the rate per centum of the total annual compensation of all Group I and Group I-A, or Group II members, as the case may be, which is an amortization, for a period to be established by the board and not to exceed thirty years, that is level percentage of the projected payroll (or a level dollar amount at the discretion of the board) of the total past service liabilities related to the payment of any retirement allowance or other benefit to be payable on their account in excess of the Accumulation Account, which is not dischargeable by the aforesaid normal contributions made on account of such members during the remainder of their active service.

(e) The total amount payable by the city in each year to the Accumulation Account shall be not less than the sum of the rates per centum known as the normal contribution rate and the accrued liability contribution rate, of the total compensation of all members in Group I, I-A, and in Group II, respectively, during the preceding year; provided, however, that the total amount payable by the city shall be at least the amount provided for in Statement No. 27 of Governmental Accounting Standards Board (or successor thereof), and that the aggregate payment shall be sufficient, when combined with

the amount in the account, to provide the retirement allowances and other benefits payable to members and beneficiaries during the year then current.

(f) All interest and dividends earned on the funds of the system shall be credited to the Accumulation Account.

(g) All retirement allowances to beneficiaries, and benefits in lieu thereof, shall be paid from the Accumulation Account.

(3) Expense Account

The Expense Account shall be the account from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Persons assigned to and working for the system shall be employees of the city, and their salaries and other accrued benefits for such employees shall be paid proportionately by the city and the City of Montgomery Airport Authority, based upon each organization's relative percentage of covered member payroll. All other expenses and costs incurred in connection with the administration and operation of the retirement system, including, but not limited to, the fees and costs paid to the system's investment trustees and advisors, shall be the sole responsibility of, and shall be paid by, the retirement system itself from its investment income.

(4) Appropriations

On or before the first day of June of each year the board shall file with the council its certification of the amount of the appropriation necessary to pay the normal and accrued liability contributions to the retirement fund for the ensuing year, and the amount of appropriation required to cover the expenses necessary in connection with the administration and operation of the system, and the amounts shall be included in the budget, in accordance with legal budget procedure.

(5) Member Contributions

(a) Contributions which the city causes pursuant to subsection (1) of this section to be deducted from the compensation of each member employee and contributed to the member's account under the act shall be treated for purposes of Section 414(h) (2) of the Internal Revenue Code as being paid by the city in lieu of contributions by any member employee.

(b) The member employee contributions which are picked up will continue to be designated employee compensation for determining the amount of the contribution to be so picked up; the total amount of the contribution of each member employee to the system shall not be reduced by this section; the amount of the retirement allowance of each member shall not be affected by this section, no other changes in the method of computation and transmittal of these picked up

employee contributions shall be affected by this section; and the total amount paid to and on behalf of each member employee will not be increased or decreased by this section.

(c) The procedure whereby the member employees' contribution to the system is picked up shall apply equally to each and every employee who participates in the system; no employee shall be given any option concerning this pick up; and this procedure of pick up shall be mandatory on all member employees.

(d) Forfeitures, if any, arising from severance of employment, death, or for any other reason, may not be used to increase benefits for employee members or their beneficiaries who would otherwise receive under the system at any time prior to termination of the system or the complete discontinuance of city contributions. Forfeitures, if any, are to be used as soon as possible to reduce subsequent city contributions.

Section 8. Management of Funds.

(1) Investments shall be managed by the investment trustee. The board shall otherwise manage the system.

(2) The board shall designate one of its members, with an appropriate bond, or a bank or trust company, to be the custodian of the funds of the system other than those in the possession of the investment trustee. All payments from the funds of the system shall be made only upon regular vouchers signed by two persons designated by the board, each

of whom shall be bonded. A duly attested copy of a resolution of the board designating the persons and bearing upon its face specimen signatures of the persons shall be filed with the custodian as his or her authority for making payments upon the vouchers. No voucher shall be drawn unless it shall have been previously authorized by resolution of the board. All persons authorized to sign the vouchers shall be bonded in an amount or amounts established by the board from time to time and commensurate with the applicable fiscal responsibilities and risks.

(3) For the purpose of meeting disbursements for retirement allowances and other payments there shall be kept on deposit available cash in an amount to be determined from time to time by the board. The board shall notify the investment trustee in writing of the amount determined by the board to be desirable. No voucher shall be drawn unless it shall have been previously authorized by resolution of the board.

(4) Except as otherwise herein provided, no member nor employee of the board, the City of Montgomery Airport Authority, or of the city, shall have any direct or indirect interest in the gains or profits of any investment made by the board or the investment trustee, nor as a member of the board receive any pay or emolument for his or her services. No member nor employee of the board shall, directly or

indirectly, for himself or herself or as an agent in any manner use the same, except to make the current and necessary payments as are authorized by the board.

(5) The board shall cause the accounts and operations of the retirement system to be audited by an independent outside auditor annually, and, an audit of its management practices and procedures every three years, or more often if necessary to maintain security and efficiency.

Section 9. Member To Elect Between Service Retirement and Other City Payments.

Anything in this act to the contrary notwithstanding, any person who is entitled to receive benefits directly from the city or from the funds of the city or from any board or commission connected with the city, for any disability, shall elect on forms, and in accordance with rules and regulations adopted by the board, between those benefits and the service retirement benefits under this system. In the event the person does not elect to receive a service retirement benefit, then he or she shall receive no service retirement benefits but shall be entitled to a return of his or her accumulated contributions.

Section 10. Return of Contributions.

Wherever in this act provision is made for return of contributions of a member, the return shall be made without payment of interest for the period subsequent to December 31,

1968, or the return of interest paid by the member when purchasing past service.

Section 11. Assignments Prohibited.

The property and funds of the system, the contributions of members deducted from their compensation, the right of a person to a retirement allowance or other benefit, and any other right accrued or accruing to any person under the provisions of this act and the moneys in the accounts created by this act shall not be subject to taxation by the city nor by the State of Alabama, nor be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law or any other process of law whatsoever to satisfy any debt or liability of any member, and shall be unassignable except as in this act specifically provided.

Section 12. Protection Against Fraud

Whoever with intent to deceive shall make any statements or reports required under this act which are untrue, or shall falsify or permit to be falsified any record or records of this system shall be fined not to exceed one thousand dollars ($1,000), or imprisoned not to exceed six months, or both.

Section 13. Errors.

Should any change or error in the records result in any member or beneficiary receiving from the system more or less than he or she would have been entitled to receive had

the records been correct, the board shall have the power to correct the error, and as far as practicable, to adjust the payments in the manner that benefits of equivalent actuarial value to the benefit to which the member or beneficiary was correctly entitled shall be paid.

Section 14. General Conditions.

(1) The board shall have the continuing right and power to amend or supplement the retirement plans created by this act and the terms and conditions thereof at any time, which right and power is hereby expressly reserved, but no amendment shall be adopted which will reduce the then accrued benefits of employees or beneficiaries below the extent they are then covered by accumulated reserves, which reserves shall constitute a trust fund for the payment of the benefits, except that any amendment or supplement which would result in additional contributions by the city shall be approved by the board, the council, and the governing body of the participating employer. At least every two years, the board will review the retirement allowances being paid to beneficiaries and make a determination as to whether or not to recommend a cost-of-living adjustment to the mayor and the council.

(2) All provisions of any act inconsistent with the provisions of this act are hereby repealed to the extent of the inconsistency.

(3) If any section or part of any section of this act is declared to be unconstitutional, the remainder of the act shall not thereby be invalidated.

(4) No amendment or supplement to the plan shall be effective if it authorizes or permits any part of the trust fund, other than such part as is required to pay administrative expenses and taxes if any, to be used for or diverted to any purpose other than for the exclusive benefit of member employees or their beneficiaries or estates, or causes any reduction in the then accrued benefits of member employees of their beneficiaries below the extent they are then covered by accumulated reserves.

Section 15. Employee Retention Incentive Program ("ERIP").

(1) Effective January 1, 2005, a member in the 20-Year Plan or the 25-Year Plan who is actively employed may make an election to participate in the ERIP option. The election shall be made during the period of 30 to 60 days prior to the member's actual retirement date. A member electing the ERIP option shall specify the ERIP election period.

(2) A member who has elected the ERIP option shall receive the following benefits:

(a) A retirement allowance as if the member had actually retired on the ERIP calculation date, based on

creditable service and average final compensation on such date; and

(b) A lump sum payment calculated based upon the retirement allowance calculated in (a) above multiplied by the number of months in the ERIP election period plus annual compound interest at the rate of 5%. The following factors shall be multiplied by the retirement allowance to determine the lump sum payment:

ERIP Election Period	Factor
12 months	12.3226
24 months	25.2613
36 months	38.8469

(3) The lump sum benefit calculated pursuant to (2) above shall be paid to the member as promptly as administratively practicable following the member's actual retirement date.

(4) A member who has previously elected the ERIP option and received a lump sum payment hereunder and who is rehired as an employee on or after January 1, 2008, shall be subject to the following rules:

(a) In the event the member repays the lump sum plus annual compound interest at the rate of seven percent (7%)

within 30 days of his or her rehire date, the prior election of the ERIP option shall be disregarded for all purposes. As of the member's subsequent retirement date, the member, if he or she is a member in the 20-Year Plan or the 25-Year Plan, may again elect the ERIP option, subject to the rules set forth above. In determining the member's retirement allowance at the subsequent retirement, all creditable service, including the prior ERIP election period shall be taken into account, but excluding service in any subsequent ERIP election period.

(b) In the event the member does not repay the lump sum plus annual compound interest at the rate of seven percent (7%) within 30 days of his or her rehire date and the period of creditable service following the member's rehire date is longer than the initial ERIP election period, the member's retirement allowance as of his or her subsequent retirement date shall be based upon all creditable service excluding the original ERIP election period.

(c) In the event the member does not repay the lump sum plus annual compound interest at the rate of seven percent (7%) within 30 days of his or her rehire date and the period of creditable service following the member's rehire date is less than the initial ERIP election period, the member's retirement allowance as of his or her subsequent retirement date shall be based upon all creditable service including the

original ERIP election period and reduced by the actuarial equivalent of the lump sum payment received as a result of electing the original ERIP option. For purposes of determining actuarial equivalence, the interest rate shall be seven percent (7%) and the member's life expectancy shall be based upon the Static 1994 Group Annuity Mortality Table.

(5) The board may suspend or eliminate the ERIP program at any time, other than with respect to a member who has made an ERIP election prior to the date of the suspension or elimination of the ERIP program. Notwithstanding the foregoing, the provisions of subsection (4) of this section shall continue in effect following the suspension or elimination.

(6) Members of the Group II Age 62 Plan and the Group I Cash Balance Plan are not eligible to elect to participate in the ERIP option.

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

Speaker of the House of Representatives

Kay Ivey

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 24-APR-13.

Jeff Woodard
Clerk

Senate 20-MAY-13 Passed

APPROVED May 22, 2013

TIME 5:12 p.m.

Robert Bentley

GOVERNOR

Alabama Secretary Of State

Act Num....: 2013-385
Bill Num...: H-533

Recv'd 05/24/13 12:44pmSLF

CO-SPONSORS

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DATE: 4.2 2013
RD 1 RFD Montg. Co. Leg.

REPORT OF STANDING COMMITTEE
This bill having been referred by the House to its standing committee on Montgomery County was acted upon by such a committee is session, and returned therefrom to the House with the recommendation that it be Passed, w/amend(s)_____ w/sub_____
this 23rd day of April, 2013.
[signature], Chairperson

DATE: 4.23 2013
RF RD 2 CAL

DATE: 20__
RE-REFERRED ☐ RE-COMMITTED ☐
Committee_____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 533.
YEAS 36 NAYS 0
JEFF WOODARD, Clerk

FURTHER HOUSE ACTION (OVER)

DATE: 5-7 20__
RD 1 RFD LL#1

This Bill was referred to the Standing Committee of the Senate on LL/
and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report
w/amd(s)_____ w/sub_____ w/eng sub_____
by a vote of
yeas 9 nays_____ abstain_____
this 9 day of May 2013
[signature], Chairperson

DATE: 5-9 20__
RF FAV RD 2 ☑ CAL ☐

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB_____.
YEAS_____ NAYS_____
PATRICK HARRIS, Secretary

DATE: 5-20-13 RD 3 at length
PASSED ☑ PASSED AS AMENDED ☐
YEAS 14 NAYS 0 A-
And was ordered returned forthwith to the House.
PATRICK HARRIS, Secretary

DATE: 20__
INDEFINITELY POSTPONED YEAS NAYS

DATE: 20__
RECONSIDERED YEAS NAYS

FURTHER SENATE ACTION (OVER)