SB51

128131-1

By Senators Holtzclaw, Reed, Ward, Allen and Fielding

RFD: Finance and Taxation Education

First Read: 07-FEB-12

PFD: 10/19/2011
SYNOPSIS: The Deferred Retirement Option Plan (DROP) for certain employees has been repealed for future participation.

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

A BILL
TO BE ENTITLED
AN ACT

To provide an optional retirement account, the Alabama Teachers' Planned Retirement Option (ATPRO) for members of the Teachers' Retirement System; to provide for review and approval by local school systems to qualified employees for participation in ATPRO; to place salary limitations; to provide three- or five-year periods of participation for participants; to require persons to withdraw
from active service upon completion of ATPRO; to prohibit
ATPRO participants from full or part time state employment
after ATPRO fulfillment; to provide rollover of ATPRO accounts
to eligible retirement accounts; and to provide certain
benefits for death or incomplete ATPRO service of ATPRO
participants.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

(2) Is at least 55 years of age.

(3) Is eligible for service retirement.

(4) Has an annual salary of seventy-five thousand
dollars ($75,000) or less.
(5) Has applied through and been approved by a local school system.

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

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

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

(f) The election to participate in ATPRO shall be made in accordance with procedures set forth in a uniform and
nondiscriminatory election and application form adopted by the Board of Control. The election to participate in ATPRO may be made at any time on or after the date the member becomes eligible to participate as set out in subsection (b). Application must be made at least 30 days, but not more than 90 days, before the effective date of participation in ATPRO.

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

(h) The ATPRO account shall earn interest at the same rate that interest is posted to active teacher retirement member accounts as defined in subdivision (15) of Section 16-25-1, Code of Alabama 1975. A person who participates in this plan shall not be eligible to receive a retiree cost-of-living increase while participating in ATPRO, and shall not be eligible for a retiree cost-of-living increase
until participation in the plan ceases and he or she withdraws from service and has been receiving a retirement allowance for at least one full year.

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

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

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

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

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

(1) Who fulfilled his or her three-year or five-year contractual obligation pursuant to ATPRO shall receive a lump-sum payment from his or her ATPRO account equal to the payments made to that account on his or her behalf plus interest. Further, the member shall receive his or her accumulated contribution made during participation in ATPRO, together with interest for the period of ATPRO participation as provided in subdivision (1) of subsection (g) of Section
16-25-14, Code of Alabama 1975. In lieu of a lump-sum payment from the ATPRO account, to the extent eligible under applicable tax laws, the member's total accrued benefit may be "rolled over" directly to the custodian of an eligible retirement plan. The member shall also begin receiving his or her monthly benefit which had been paid directly into the ATPRO account during his or her participation in ATPRO. However, the monthly benefit shall be recalculated prospectively to reflect any accrued sick leave as credit for retirement purposes. Conversion of sick leave is limited to the applicable laws pertaining to conversion of sick leave into retirement credit. In no event can the number of days converted be greater than the number of days the participant had on the date he or she entered ATPRO. The member is not allowed to change the option allowance chosen at the beginning of ATPRO participation.

(2) Who did not fulfill his or her obligation under ATPRO due to involuntary termination, disability, or involuntary transfer of his or her spouse, shall receive a lump-sum payment from his or her ATPRO account equal to the payments made to that account on his or her behalf plus interest. Further, the member shall receive his or her accumulated contribution made during participation in ATPRO, together with interest for the period of ATPRO participation as provided in subdivision (1) of subsection (g) of Section 16-25-14, Code of Alabama 1975. In lieu of a lump-sum payment from the ATPRO account, to the extent eligible under
applicable tax laws, the member's total accrued benefit may be "rolled over" directly to the custodian of an eligible retirement plan. The member shall also begin receiving his or her monthly benefit which had been paid directly into the ATPRO account during his or her participation in ATPRO. However, the monthly benefit shall be recalculated prospectively to reflect any accrued sick leave as credit for retirement purposes. Conversion of sick leave is limited to the applicable laws pertaining to conversion of sick leave into retirement credit. In no event can the number of days converted be greater than the number of days the participant had on the date he or she entered ATPRO. The member is not allowed to change the option allowance chosen at the beginning of ATPRO participation.

(3) Who did not fulfill his or her obligation under ATPRO due to voluntary termination within the first three years of participation shall forfeit a portion of his or her ATPRO account that constitutes the retirement allowance. The member shall be entitled to a return of his or her member contribution made during his or her participation in ATPRO as well as any interest attributable to the retirement allowance. However, following termination of employment, the member shall begin receiving his or her monthly benefit which had been paid directly into the ATPRO account during his or her participation in ATPRO. However, the monthly benefit shall be recalculated prospectively to reflect any accrued sick leave as credit for retirement purposes. Conversion of sick leave is
limited to the applicable laws pertaining to conversion of
sick leave into retirement credit. In no event can the number
of days converted be greater than the number of days the
participant had on the date he or she entered ATPRO. The
member is not allowed to change the option allowance chosen at
the beginning of ATPRO participation.

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

(c) At the end of the specified period for ATPRO:
(1) Payments into the ATPRO account made on behalf of the member shall cease.

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

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

Section 4. Notwithstanding the foregoing provisions of this act or any other laws to the contrary, no employer whose employees are covered under the Teachers' Retirement System shall offer any incentives of value including, but not limited to, monetary payments, prepayment of health insurance, or extraordinary payments for accrued leave, contingent on the member applying for or electing to participate in ATPRO. This provision shall not apply to regular payments for leave or
contributions toward health insurance, but shall serve to prevent any extraordinary benefits or incentives offered during a limited time period solely for the purpose of enticing employees to elect to participate in ATPRO.

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

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

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

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