SB215

136231-1

By Senators Ross, Singleton, Fielding, Irons, Figures and Beasley

RFD: Finance and Taxation Education

First Read: 07-FEB-12
SYNOPSIS: Currently, members of the Teachers' Retirement System and the Employees' Retirement System may not be new participants in the DROP Program after April 1, 2011, which also imposes limits on interest that could be paid on DROP accounts.

This bill would reestablish DROP and would remove limits on interest that could be paid on DROP accounts.

A BILL TO BE ENTITLED

AN ACT

To amend Sections 16-25-150 and 36-27-170, as last amended by Act 2011-27, 2011 Regular Session, of the Code of Alabama 1975, relating to the Deferred Retirement Option Plan, to allow new participation in the plan and remove limits on interests paid on the accounts.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Sections 16-25-150 and 36-27-170, as last amended by Act 2011-27, 2011 Regular Session, of the Code of Alabama 1975, are amended to read as follows:

"§16-25-150.

"(a) As governed by this subsection, there exists as a part of this retirement system an optional account known as the Deferred Retirement Option Plan, which may be cited as "DROP." The purpose of DROP 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 DROP is an option available to any member of this 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 one hundred thousand dollars ($100,000) or less.

"(c) An election to participate in DROP may be made in one year increments not to exceed five years, nor to be less than three years. A member may participate in DROP only one time. Any voluntary termination within the first three
years in DROP will result in a forfeiture of the portion of his or her DROP 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. After five years, the employee shall withdraw from active service upon completion of DROP. The employee shall not participate in full or part-time employment with the local school system upon completion of DROP.

"(d) A member who chooses to participate in DROP may elect an option allowance set out for members of the Teachers' Retirement System in subsection (h) of Section 16-25-14 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 DROP, 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.

"(f) The election to participate in DROP 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 DROP may be
made at any time on or after the date the member becomes eligible to participate as set out in subsection (b). Such application must be made at least 30 days, but not more than 90 days, before the effective date of participation in DROP, and shall be made no later than March 24, 2011. A member must be eligible to participate, as provided above at the time the application is made.

"(g) Upon the effective date of the commencement in DROP, the member's service shall remain as it existed on that date for the duration of DROP. Once a member enters DROP, 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 DROP account that reflects the credits attributed to the person in DROP. 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.

"(h) The DROP account shall earn interest at the same rate that interest is posted to active member accounts as defined in subdivision (15) of Section 16-25-1. A person who participates in this plan shall not be eligible to receive a retiree cost-of-living increase while participating in DROP, 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.

"(2) Notwithstanding any other provision of this
chapter, for any member who has fulfilled his or her
obligation under DROP and does not withdraw from service and
any member who begins participation in DROP on or before April
1, 2011, and fulfills his or her obligation under DROP and
does not withdraw from service, the amount of interest payable
on benefit deposits after March 24, 2011, shall be the lesser
of (1) the investment performance of the immediately preceding
fiscal year but no less than $0, or (2) as provided in
subdivision (1) of subsection (d) of Section 16-25-151.

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

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

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

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

"§36-27-170.

"(a) As governed by this subsection, there exists as
a part of this retirement system, an optional account known as
the Deferred Retirement Option Plan, which may be cited as "DROP." The purpose of DROP 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 such period of participation, at which time the member shall withdraw from service.

"(b) Participation in DROP is an option available to any member of this retirement system who meets all of the following:

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

"(2) Is at least 55 years of age, or in the case of a state police member, is at least 52 years of age.

"(3) Is eligible for service retirement.

"(4) Has an annual salary of one hundred thousand dollars ($100,000) or less.

"(c) An election to participate in DROP may be made in one year increments not to exceed five years, nor to be less than three years. A member may participate in DROP only one time. Any voluntary termination within the first three years in DROP will result in a forfeiture of a portion of his or her DROP 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 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. **After five years, the employee shall withdraw from active service upon completion of DROP.** The employee shall not participate in full or part-time employment with the state upon completion of DROP.

"(d) A member who chooses to participate in DROP may elect an option allowance set out for members of the Employees' Retirement System in subsection (d) of Section 36-27-16 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 DROP, 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 36-27-171. A person electing to enter the DROP program is not eligible for a lump-sum payment for any annual or sick leave until withdrawal from service.

"(f) The election to participate in DROP 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 DROP may be made at any time on or after the date the member becomes eligible to participate as set out in subsection (b). Such application must be made at least 30 days, but not more than
90 days, before the effective date of participation in DROP, and shall be made no later than March 24, 2011. A member must be eligible to participate, as provided above, at the time the application is made.

"(g) Upon the effective date of the commencement in DROP, the member's service shall remain as it existed on that date for the duration of DROP. Once a member enters DROP, 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 DROP account that reflects the credits attributed to the person in DROP. 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 36-27-28.

"(h) The DROP account shall earn interest at the same rate that interest is posted to active member accounts as defined in subdivision (12) of Section 36-27-1. A person who participates in this plan shall not be eligible to receive a retiree cost-of-living increase while participating in DROP, 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.
"(2) Notwithstanding any other provision of this chapter, for any member who has fulfilled his or her obligation under DROP and does not withdraw from service and any member who begins participation in DROP on or before April 1, 2011, and fulfills his or her obligation under DROP and does not withdraw from service, the amount of interest payable on benefit deposits after March 24, 2011, shall be the lesser of (1) the investment performance of the immediately preceding fiscal year but no less than $0, or (2) as provided in subdivision (1) of subsection (d) of Section 36-27-171.

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

"(j) Participation in DROP shall not affect the rights of any state employee under the state personnel system, including, but not limited to, his or her rights to longevity pay.

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

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

Section 2. 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.