SB242
134108-1
By Senator Whatley
RFD: Finance and Taxation Education
First Read: 08-FEB-12
SYNOPSIS: Currently, a member of the Teachers' Retirement System or the Employees' Retirement System participating in the Deferred Retirement Option Plan (DROP) who voluntarily leaves service within the first three years in DROP will forfeit the portion of his or her DROP account that constitutes the retirement allowance.

This bill would allow members in DROP to voluntarily leave service without forfeiting the portion of his or her DROP account that constitutes the retirement allowance.

A BILL

TO BE ENTITLED

AN ACT

To amend Sections 16-25-150 and 36-27-170 of the Code of Alabama 1975, as amended by Act 2011-27, relating to the Deferred Retirement Option Plan (DROP), to allow members in the plan to voluntarily leave service without forfeiting
BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-25-150 and 36-27-170 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.

"(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 Prior to the effective date of this act, 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 the effective date of this act, any voluntary termination within the first three years in DROP will not result in a forfeiture of the portion of his or her DROP account that constitutes the retirement allowance. In addition, member contributions will not be forfeited, nor will any interest attributable to the retirement allowance.

"(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)(1) 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.

"(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 the effective date of this act, any voluntary
termination within the first three years in DROP will not
result in a forfeiture of the portion of his or her DROP
account that constitutes the retirement allowance. In
addition, member contributions will not be forfeited, nor will
any interest attributable to the retirement allowance.

"(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)(1) 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. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect that part which remains.
Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.