

# INDEX

	<u>Page</u>
ARTICLE I. DEFINITIONS .....	2
1.01 Annuity Starting Date .....	2
1.02 Beneficiary .....	2
1.03 Board .....	2
1.04 Break in Service .....	2
1.05 City .....	3
1.06 Code .....	3
1.07 Equivalent Actuarial Value .....	3
1.08 Final Average Salary .....	3
1.09 Fund .....	4
1.10 Highly Compensated Employee .....	4
1.11 Leave .....	4
1.12 Member .....	4
1.13 Plan .....	4
1.14 Plan Year .....	4
1.15 Salary .....	4
1.16 Service .....	5
1.17 Uniformed Officer .....	5
 ARTICLE II. MEMBERSHIP .....	 6
2.01 Membership Requirements .....	6
2.02 Events Affecting Membership .....	6
2.03 Membership Upon Reemployment .....	7
 ARTICLE III. SERVICE .....	 7
3.01 Service .....	7
3.02 Military Service .....	7
3.03 Restoration of Retired Member or Other Former Member to Service .....	9

ARTICLE IV. ELIGIBILITY FOR AND AMOUNT OF BENEFITS . . . . . 10

4.01	Retirement . . . . .	10
4.02	Disability . . . . .	12
4.03	Termination of Employment . . . . .	15
4.04	Death . . . . .	16
4.05	Cost-of-Living Increases . . . . .	18
4.06	Maximum Benefit Limitation . . . . .	18
4.07	Forfeiture for Cause . . . . .	19

ARTICLE V. PAYMENT OF BENEFITS . . . . . 19

5.01	Payment of Benefits . . . . .	19
5.02	Optional Forms of Payment . . . . .	20
5.03	Election of Options . . . . .	21
5.04	Distribution Limitation . . . . .	22
5.05	Direct Rollover of Certain Distributions . . . . .	22

ARTICLE VI. CONTRIBUTIONS . . . . . 24

6.01	Fines . . . . .	24
6.02	Insurance Premiums . . . . .	24
6.03	Member Contributions . . . . .	26
6.04	Donations . . . . .	27
6.05	City Contributions . . . . .	27
6.06	Return of Contributions . . . . .	29

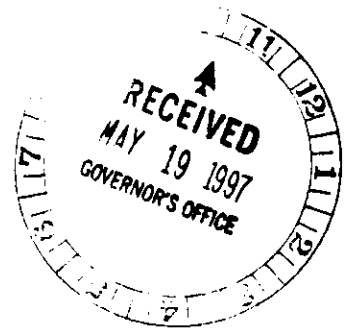
ARTICLE VII. ADMINISTRATION OF PLAN . . . . . 29

7.01	Appointment of Board . . . . .	29
7.02	Elections . . . . .	31
7.03	Vacancies . . . . .	31
7.04	Duties of Board . . . . .	32
7.05	Establishment of Rules . . . . .	32
7.06	Meetings . . . . .	33
7.07	Compensation and Bonding . . . . .	33
7.08	Prudent Conduct . . . . .	33
7.09	Maintenance of Accounts . . . . .	34
7.10	Service in More than One Fiduciary Capacity . . . . .	34

7.11	Limitation of Liability	34
7.12	Indemnification	34
7.13	City Attorney to Represent Board	35
7.14	Expenses of Administration	35
7.15	Deferred Retirement Option Plan ("DROP Plan")	35
ARTICLE VIII. MANAGEMENT OF FUNDS		36
8.01	Trustee	36
8.02	Exclusive Benefit Rule	36
ARTICLE IX. AMENDMENT, MERGER, AND TERMINATION		37
9.01	Amendment of Plan	37
9.02	Termination of Plan	38
9.03	Limitation Concerning Highly Compensated Employees or Highly Compensated Former Employees	38
ARTICLE X. GENERAL PROVISIONS		40
10.01	Nonalienation	40
10.02	Fund Not Subject to Attachment	40
10.03	Conditions of Employment Not Affected by Plan	40
10.04	Facility of Payment	40
10.05	Information	41
10.06	Appeals from Board Decisions	41
10.07	Prevention of Escheat	41
10.08	Severability	42
10.09	Construction	42

97-689

Rep. Crigler



H. 919

Enrolled, An Act,

To provide for a retirement system for police and firefighters of the City of Mobile, Alabama; providing for membership and service requirements, eligibility, amount, and payment of benefits; providing for employer and employee contributions to the system; providing for administration and management of the system under a board of trustees; providing for certain limitations on benefits to certain employees; providing for appeals from decisions made by the board; and repealing Act 243, H. 278, 1964 First Special Session (Acts 1964, p. 326), Act 400, H. 564, 1965 Regular Session (Acts 1965, p. 576), Act 359, H. 366, 1966 Special Session (Acts 1966, p. 499), Act 180, H. 167, 1967 Regular Session (Acts 1967, p. 231), Act 1484, S. 1030, 1971 Regular Session (Acts 1971, p. 2540), Act 887, S. 740, 1978 Regular Session (Acts 1978, p. 1315), Act 80-339, H. 875, 1980 Regular Session (Acts 1980, p. 458), Act 85-231, H. 211, 1985 Regular Session (Acts 1985, p. 130), Act 85-312, H. 176, 1985 Regular Session (Acts 1985, p. 211), Act 85-938, H. 129, 1985 Special Session (Acts 1985, p. 241), Act 86-475, H. 478, 1986 Regular Session (Acts 1986, p. 900), Act 90-198, S. 566, 1990 Regular Session (Acts 1990, p. 229), Act 91-701, H. 980, 1991 Regular Session (Acts

1 1991, p. 1365), and Act 95-571, H. 598, 1995 Regular Session  
2 (Acts 1995, p. 1194).

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. A retirement system for police and  
5 firefighters of the City of Mobile, Alabama, is provided for  
6 by Articles 1 to 10, inclusive, which are contained in  
7 Sections 2 to 11, inclusive, of this act.

8 Section 2. ARTICLE I. DEFINITIONS. As used in  
9 this act, the following words and terms shall have meanings as  
10 follows:

11 1.01 ANNUITY STARTING DATE. The first day for which  
12 a benefit is payable as an annuity or any other form under  
13 5.01.

14 1.02 BENEFICIARY. The person or persons named by a  
15 member by written designation filed with the board to receive  
16 payments under this plan after the member's death. The member  
17 may not change his or her beneficiary after his or her annuity  
18 starting date. If no beneficiary designation is in effect at  
19 the member's death, or if no person so designated survives the  
20 member, the member's surviving spouse, if any, shall be deemed  
21 to be the beneficiary, otherwise the beneficiary shall be the  
22 member's estate.

23 1.03 BOARD. The Police and Fire Pension Board as  
24 constituted under 7.01, or its delegate.

25 1.04 BREAK IN SERVICE. A period of absence which  
26 would constitute a break in the member's service under the  
27 Mobile County Personnel Board rules; provided, however, that

1 periods of leave and periods of service in the uniformed  
2 services of the United States, determined in accordance with  
3 3.02 of the plan, shall not constitute a break in service.

4 1.05 CITY. The City of Mobile, Alabama.

5 1.06 CODE. The Internal Revenue Code of 1986, as  
6 amended from time to time.

7 1.07 EQUIVALENT ACTUARIAL VALUE. The equivalent  
8 value when computed on the basis of the 1995 Buck Mortality  
9 Table (Male) for Members, the 1995 Buck Mortality Table  
10 (Female) for Beneficiaries and an interest rate of seven  
11 percent per year, compounded annually.

12 1.08 FINAL AVERAGE SALARY. For a member who first  
13 became a uniformed officer prior to March 28, 1990, the  
14 average of the member's salary for his or her final 36 months  
15 of service and, for a member who first became a uniformed  
16 officer on or after March 28, 1990, the average of the  
17 member's salary for his or her final 60 months of service.  
18 For purposes of this definition, a uniformed officer who has a  
19 break in service exceeding one year shall be deemed to first  
20 become a uniformed officer on his or her first day of service  
21 after his or her last break in service. Notwithstanding  
22 anything to the contrary in this section, if a member becomes  
23 disabled under 4.02(a) prior to completing 36 or 60 months of  
24 service, as the case may be, his or her final average salary  
25 shall be the average of his or her salary for all months of  
26 service.

1           1.09 FUND. The assets of the plan held in trust by  
2 the board pursuant to 8.01 of the retirement plan.

3           1.10 HIGHLY COMPENSATED EMPLOYEE. An individual  
4 described in Section 414(q) of the Code.

5           1.11 LEAVE. A period of absence from work during  
6 which the member is entitled to a leave under the provisions  
7 of the Family and Medical Leave Act of 1993 and its  
8 regulations (i) in order to care for the member's child  
9 following the birth of the child, (ii) because of the  
10 placement of a child with the member for adoption or foster  
11 care, (iii) because of a serious health condition that makes  
12 the member unable to perform his or her duties as a uniformed  
13 officer, or (iv) for purposes of caring for his or her child,  
14 spouse, or parent having a serious health condition.

15           1.12 MEMBER. Any person included in the membership  
16 of the plan, as provided in Article 2.

17           1.13 PLAN. The City of Mobile, Alabama Police and  
18 Firefighters Retirement Plan, as provided for in this act.

19           1.14 PLAN YEAR. The 12-month period beginning on  
20 any October 1.

21           1.15 SALARY. A member's salary as a uniformed  
22 officer determined in accordance with the pay plan for the  
23 Mobile County Personnel Board. Notwithstanding the foregoing,  
24 the salary of any uniformed officer hired after September 30,  
25 1996, shall not exceed one hundred fifty thousand dollars  
26 (\$150,000), as adjusted in accordance with the provisions of

1 Section 401(a)(17)(B) of the Code, for any purpose under the  
2 plan, including the determination of final average salary.

3 In determining the salary of a member, if any  
4 individual is a member of the family of a highly compensated  
5 employee in the group consisting of the 10 highly compensated  
6 employees paid the greatest compensation during the year, then  
7 (i) the individual shall not be considered as a separate  
8 employee and (ii) any salary paid to the individual, and any  
9 applicable benefit on behalf of the individual, shall be  
10 treated as if it were paid to, or on behalf of, the highly  
11 compensated employee. For purposes of 1.15, the member's  
12 "family" shall include only the spouse of the member and any  
13 lineal descendants of the member who have not attained age 19  
14 before the close of the year. If, as a result of the  
15 application of the foregoing family aggregation rules, the one  
16 hundred fifty thousand dollars (\$150,000) limit, as adjusted,  
17 on salary is exceeded for uniformed officers hired after  
18 September 30, 1996, then the limit shall be prorated among the  
19 affected individuals in proportion to the individual's salary  
20 as herein determined prior to the application of the limit.

21 1.16 SERVICE. Service recognized in accordance with  
22 the provisions of Article 3 for purposes of determining a  
23 member's eligibility for a benefit under the plan and the  
24 amount of that benefit.

25 1.17 UNIFORMED OFFICER. A person employed by the  
26 city police department or fire department as a police officer  
27 or firefighter, as the case may be, who (a) is certified as a



1 police officer or firefighter by the State of Alabama, (b) is  
2 in training to be certified by the State of Alabama as a  
3 police officer or firefighter, (c) is employed by the city  
4 police department or fire department other than as a certified  
5 police officer or firefighter and who was a participant in the  
6 plan immediately preceding the date this plan became effective  
7 in accordance with 10.10, or (d) is in the police cadet  
8 program. Notwithstanding anything to the contrary in this  
9 section, any employee who elected not to participate in the  
10 plan in accordance with the provisions of the Section 11 of  
11 Act 86-475 of the 1986 Regular Session shall not be considered  
12 a uniformed officer for any purpose under the plan for any  
13 period prior to his or her election to again be covered by  
14 this plan. Upon making such an election, the employee shall  
15 be considered a uniformed officer for periods beginning on and  
16 after his or her election is effective, but only if he or she,  
17 otherwise meets the requirements of 1.17. Any election by the  
18 former uniformed officer to again be treated as a uniformed  
19 officer shall be made in a time and manner determined by the  
20 board.

21 Section 3. ARTICLE 2. MEMBERSHIP.

22 2.01 Membership Requirements.

23 Every uniformed officer shall be a member in this  
24 plan as of the date he or she first becomes a uniformed  
25 officer. Membership in this plan shall be mandatory for all  
26 uniformed officers.

27 2.02 Events Affecting Membership.

1           A person's membership in the plan shall end when he  
2 or she is no longer employed as a uniformed officer or, if he  
3 or she is entitled to benefits under the plan, when those  
4 benefits have been distributed to him or her. Membership  
5 shall continue while on leave, or other leave of absence  
6 approved by the board or during periods of service in the  
7 uniformed services of the United States, as defined in  
8 3.02(c), but no service shall be counted for periods except as  
9 specifically provided in Article 3. A person's benefit shall  
10 be determined in accordance with the provisions of the plan in  
11 effect on the date he or she ceases to be a uniformed officer.

12           2.03 Membership Upon Reemployment.

13           If a uniformed officer's membership in the plan ends  
14 and he or she again becomes a uniformed officer, he or she  
15 shall again become a member on the date he or she again  
16 becomes a uniformed officer.

17           Section 4. ARTICLE 3. SERVICE.

18           3.01 Service.

19           Except as otherwise provided in this article, a  
20 member's service shall be his or her period of service as a  
21 uniformed officer as determined in accordance with the Mobile  
22 County Personnel Board Rules. Service performed other than as  
23 a uniformed officer shall not be included in a member's  
24 service except as provided in 3.02.

25           3.02 Military Service.

26           (a) If a member shall have been absent from service  
27 as a uniformed officer because of service in the uniformed

1 services of the United States and if he or she shall have  
2 returned to service as a uniformed officer having applied to  
3 return while his or her reemployment rights were protected by  
4 law, that absence shall not count as a break in service.

5 (b) If the member who returns to service as a  
6 uniformed officer in accordance with paragraph (a) above makes  
7 the contributions that would have been required by 6.03 had he  
8 or she not been in the uniformed services, his or her period  
9 of service in the uniformed services shall be counted as  
10 service. The member may make those contributions at any time  
11 within a period beginning on his or her return to service as a  
12 uniformed officer which is equal to three times his or her  
13 period of service in the uniformed services, but not longer  
14 than five years. For purposes of determining the amount of  
15 the member's contributions that would have been required by  
16 6.03, a member's salary during his or her period of service in  
17 the uniformed services shall be deemed to be the salary he or  
18 she would have received for that period had he or she remained  
19 employed as a uniformed officer or, if that salary is not  
20 reasonably certain, his or her average salary for the 12-month  
21 period immediately preceding his or her service in the  
22 uniformed services.

23 (c) For purposes of 3.02, the terms "service in the  
24 uniformed services of the United States" and "uniformed  
25 services" shall have the meanings given to those terms in  
26 Sections 4303(13) and 4303(16) of the Uniformed Services  
27 Employment and Reemployment Rights Act of 1994, respectively.

1                   3.03 Restoration of Retired Member or Other Former  
2 Member to Service.

3                   (a) If a member entitled to a benefit under 4.01,  
4 4.02, or 4.03(a) of the plan is restored to service as a  
5 uniformed officer, any benefit he or she may be receiving  
6 under Article IV shall cease and any election of an optional  
7 benefit in effect shall be void. If he or she is restored to  
8 service as a uniformed officer before he or she has a break in  
9 service exceeding one year, any service to which he or she was  
10 entitled when he or she retired or terminated service shall be  
11 restored to him or her, and upon his or her later retirement  
12 or termination, his or her benefit shall be based on the  
13 benefit formula then in effect and his or her salary and  
14 service before and after his or her break in service, reduced  
15 by an amount that is of equivalent actuarial value to the  
16 benefits he or she received under 4.01 or 4.03(a), if any,  
17 before his or her restoration to service. If he or she is  
18 restored to service as a uniformed officer after having a  
19 break in service exceeding one year, his or her service prior  
20 to the break in service shall be restored to him or her. Upon  
21 his or her later retirement or termination, the benefit he or  
22 she received under 4.01 or 4.03(a), if any, prior to his or  
23 her break in service shall recommence plus he or she shall  
24 receive an additional amount determined under the provisions  
25 of Article IV based on his or her service and his or her  
26 salary after his or her break in service. However, the member  
27 shall not be entitled to an additional benefit under 4.01 or

1 4.03(a) unless he or she has at least 10 years of service  
2 after he or she is restored to service, and the last 10 years  
3 of the service are without a break in service exceeding one  
4 year.

5 (b) If a member who has received a distribution of  
6 his or her contributions to the plan under 4.03(b) is restored  
7 to service as a uniformed officer and he or she repays the  
8 amount he or she received under 4.03(b) of the plan plus 10  
9 percent interest per annum, his or her period of service as a  
10 uniformed officer prior to his or her termination of  
11 employment shall be restored to him or her and shall be  
12 counted as service. The member may repay the amount at any  
13 time within a period beginning upon his or her return to  
14 service as a uniformed officer which is equal to three times  
15 his or her period of service prior to his or her termination  
16 of employment, but no longer than five years. Upon his or her  
17 subsequent retirement or termination of employment, his or her  
18 benefit shall be based on his or her service both before and  
19 after his or her initial termination of employment. However,  
20 the member shall not be entitled to any benefit under this  
21 plan after he or she is restored to service as a uniformed  
22 officer unless he or she has at least 10 years of service  
23 without a break in service exceeding one year after he or she  
24 is restored to service.

25 Section 5. ARTICLE 4. ELIGIBILITY FOR AND AMOUNT  
26 OF BENEFITS.

27 4.01 Retirement.

1           (a) Except as provided in 4.07, a member who first  
2 became a uniformed officer prior to March 28, 1990, and who  
3 terminates his or her employment as a uniformed officer on or  
4 after he or she has 20 years of service, the last 10 years of  
5 service being without a break in service exceeding one year,  
6 shall have a nonforfeitable right to receive an annual benefit  
7 beginning on the first day following the later of his or her  
8 termination of employment as a uniformed officer or his or her  
9 50th birthday. His or her annual benefit shall be equal to  
10 two and one-half percent of his or her final average salary  
11 multiplied by his or her years of service, but shall not be  
12 less than 50 percent, nor more than 75 percent, of his or her  
13 final average salary.

14           (b) Except as provided in 4.07, a member who first  
15 became a uniformed officer on or after March 28, 1990, and who  
16 terminates his or her employment as a uniformed officer on or,  
17 after he or she has 20 years of service, the last 10 years of  
18 service being without a break in service exceeding one year,  
19 shall have a nonforfeitable right to receive an annual benefit  
20 beginning on the first day following the later of his or her  
21 termination of employment as a uniformed officer or his or her  
22 55th birthday. His or her annual benefit shall be equal to  
23 the sum of (i) two and one-half percent of his or her final  
24 average salary multiplied by his or her years of service not  
25 in excess of 20 years, plus (ii) two and one-fourth percent of  
26 his or her final average salary multiplied by his or her years  
27 of service in excess of 20 years, but not less than 50

1 percent, nor more than 72 1/2 percent, of his or her final  
2 average salary.

3 (c) For purposes of 4.01, a uniformed officer who  
4 has a break in service exceeding one year shall be deemed to  
5 first become a uniformed officer on his or her first day of  
6 service after his or her last break in service.

7 4.02 Disability.

8 (a) If (i) a member who has at least 15 years of  
9 service becomes permanently physically or mentally disabled or  
10 (ii) any member becomes permanently physically or mentally  
11 disabled while performing his or her duties as a uniformed  
12 officer, he or she shall receive a monthly disability benefit  
13 equal to two and one-half percent of his or her final salary  
14 multiplied by his or her years of service, but not more than  
15 60 percent of his or her final salary. However, if a member  
16 who becomes disabled under clause (ii) above can show to the  
17 board's satisfaction that he or she is totally disabled then  
18 his or her monthly disability benefit shall be equal to 60  
19 percent of his or her salary.

20 (b) A member shall be permanently physically or  
21 mentally disabled if:

22 (i) There is no other job or service within his or  
23 her merit system classification that he or she is capable of  
24 performing; and

25 (ii) Upon entering service as a uniformed officer he  
26 or she successfully passed a board-approved physical  
27 examination, whether or not such examination was required to

1 enter service as a uniformed officer, which failed to reveal  
2 any evidence of a condition which could cause his or her  
3 disability.

4 (c) Any dispute as to whether a job or service is  
5 within the member's merit system classification shall be  
6 determined solely by the Mobile County Personnel Board in  
7 accordance with its rules and regulations governing such  
8 matters.

9 (d) If a member is disabled within the meaning of  
10 4.02(c) due to hypertension, heart disease, respiratory  
11 disease, AIDS or hepatitis and, in the case of a member  
12 employed as a firefighter, cancer, his or her disability shall  
13 be deemed to have occurred while performing his or her duties  
14 as a uniformed officer if the member can show to the  
15 satisfaction of the board that:

16 (i) He or she has completed three years of service ,  
17 as a uniformed officer;

18 (ii) The AIDS, hepatitis, or cancer manifests itself  
19 no later than the end of the tenth year following the member's  
20 retirement from service, regardless of the member's annuity  
21 starting date;

22 (iii) The member demonstrates within 30 days of his  
23 or her exposure to AIDS, hepatitis, or to a known carcinogen  
24 which is linked to the disabling cancer that he or she was  
25 exposed while performing his or her duties as a uniformed  
26 officer; and



1           (iv) In the case of cancer, the city fails to prove  
2     by a preponderance of the evidence that the cancer was caused  
3     by some other means.

4           (e) The disability benefit paid under this article  
5     to any member shall be reduced for the first three years it is  
6     paid to the extent necessary to prevent the sum of the  
7     member's disability benefit plus any earnings, as defined in  
8     Section 203(f)(5) of the Social Security Act, received by the  
9     member from exceeding 100 percent of the member's rate of  
10    salary determined immediately prior to his or her disability.  
11    Any member to whom this paragraph (e) applies shall submit by  
12    June 1 of each year a true and correct copy of his or her  
13    federal and state income tax returns for the preceding year or  
14    other evidence of income as the board may determine.

15           (f) A member eligible to receive a disability  
16    benefit under this article shall begin to receive the benefit,  
17    on the first day following the date the board approves his or  
18    her application for a disability benefit and he or she shall  
19    continue to receive the benefit only until the earlier of the  
20    date he or she ceases to be disabled as provided in 4.02(c) or  
21    his or her death. If a member receiving a disability benefit  
22    under 4.02 is found to be no longer disabled, he or she shall  
23    be entitled to receive a benefit under 4.01 if he or she met  
24    the requirements for such a benefit prior to the date he or  
25    she first became disabled.

26           (g) Members shall submit annually, and at such other  
27    times as ordered by the board, such statements or other

1 evidence of his or her disability as may be required by the  
2 board, including the results of an examination by physicians  
3 or other health professionals selected by the board. Any  
4 member applying for or in receipt of any disability benefits  
5 under this section who refuses to provide the evidence of  
6 disability or to allow the examination shall not receive any  
7 disability benefits from this plan until he or she complies  
8 with the board's request. If the board has reasonable cause  
9 to believe that a member receiving a disability benefit is no  
10 longer disabled, the board shall, upon notice, conduct a  
11 hearing to determine the member's continued eligibility for  
12 the benefit and to ascertain whether the member has received  
13 any payments for which the member was ineligible. If the  
14 board finds that the member is no longer disabled, the board  
15 shall discontinue the member's benefit payments. The board  
16 may also file suit in the circuit court to recover any  
17 payments made to any member who has been found to be  
18 ineligible to receive those payments. If the board is the  
19 prevailing party in the action, it may also recover its  
20 reasonable attorney's fees for bringing the suit.

21 4.03 Termination of Employment.

22 (a) A member who terminates his or her employment as  
23 a uniformed officer, other than by reason of death or  
24 disability, after he or she has 15 years of service, the last  
25 10 years of service being without a break in service exceeding  
26 one year, but before he or she is eligible to receive a  
27 benefit under 4.01 of the plan, shall receive a benefit equal

1 to the benefit he or she would otherwise receive under 4.01.  
2 The benefit shall be payable in accordance with the provisions  
3 of Article 5 beginning on the first day following the later of  
4 his or her termination of employment as a uniformed officer or  
5 his or her 65th birthday.

6 (b) If a member who does not have at least 15 years  
7 of service, the last 10 years of service being without a break  
8 in service exceeding one year, terminates his or her  
9 employment as a uniformed officer before becoming eligible for  
10 a retirement benefit under 4.01 for any reason other than  
11 death or disability, he or she shall receive a single sum  
12 equal to his or her contributions to the plan under 6.03 as  
13 soon as practicable following his or her termination of  
14 employment.

15 4.04 Death.

16 (a) If a member eligible for a retirement benefit  
17 under 4.01 or a member eligible for a benefit under 4.03(a)  
18 dies prior to his or her annuity starting date, his or her  
19 eligible family members shall receive a benefit equal to the  
20 greater of (i) the benefit they would have received had the  
21 member met the requirements of 4.01 or 4.03(a) of the plan, as  
22 the case may be, retired, or terminated employment on the day  
23 preceding his or her death and begun to receive his or her  
24 benefit in accordance with the 50 percent survivor's benefit  
25 in Option 2 of 5.02 or (ii) a single sum equal to the lesser  
26 of (A) twice the member's contributions to the plan under 6.03  
27 or (B) the sum of the member's contributions to the plan under

1 6.03 plus five thousand dollars (\$5,000). The benefit in  
 2 clause (i) shall be converted to a single sum of equivalent  
 3 actuarial value for purposes of determining the greater  
 4 benefit. Solely for purposes of 4.04(a), a member's eligible  
 5 family members shall be his or her spouse if he or she is  
 6 married at the date of his or her death or, if he or she is  
 7 not married, his or her children under the age of 18.  
 8 Benefits under clause (i) will be paid for the eligible family  
 9 member's life in the case of a spouse or until the children  
 10 reach age 18; provided, however, if an unmarried child is  
 11 mentally or physically disabled and depends on another person  
 12 for his or her support, payments shall continue until the  
 13 earlier of the date the child ceases to be dependent on  
 14 another person for support, the child's marriage, or the  
 15 child's death. If benefits are paid to a member's children  
 16 under 4.04(a), for purposes of determining the amount to be  
 17 paid to each child, each child will be treated as a joint  
 18 annuitant, each child will receive a benefit until he or she  
 19 reaches age 18 or dies, if earlier, and each child will  
 20 receive a benefit of equivalent actuarial value.

21 (b) If a member described in 4.04(a) who is not  
 22 survived by an eligible family member or any other member not  
 23 described in 4.04(a), dies prior to receiving a benefit under  
 24 4.01 or 4.03 of this plan, as the case may be, an amount equal  
 25 to the lesser of (i) twice the member's contributions to the  
 26 plan under 6.03 or (ii) the sum of the member's contributions

1 to the plan under 6.03 plus five thousand dollars (\$5,000)  
2 shall be paid to the member's beneficiary.

3 (c) Any benefits paid under 4.04 shall be paid as  
4 soon as practicable following the member's death.

5 (d) If a member dies after his or her annuity  
6 starting date, his or her beneficiary shall receive the  
7 benefits, if any, provided by the form in which his or her  
8 benefit is paid.

9 4.05 Cost-of-Living Increases.

10 The board, after consultation with its actuary and  
11 other advisors, may from time to time grant such  
12 cost-of-living increases in the benefits being paid to all  
13 retired members, or certain classes of retired members, as the  
14 board deems prudent, but only if such increases would have no  
15 material adverse impact on the funded status of the plan.

16 4.06 Maximum Benefit Limitation.

17 Notwithstanding any provision of the plan to the  
18 contrary, the maximum annual benefit paid to a member shall  
19 not exceed the limitations imposed by Section 415 of the Code  
20 and any regulations issued thereunder. The mortality table  
21 prescribed by the Secretary of the Treasury under Section  
22 417(e)(3)(A)(ii)(I) of the Code for the plan year in which the  
23 annuity starting date for the benefit occurs shall be used to  
24 the extent necessary to determine if the benefit exceeds the  
25 limitations imposed by Section 415 of the Code. For purposes  
26 of 4.06, the limitation year shall be the plan year. To the  
27 extent this plan has to be combined with any other plan of the

1 city, the State of Alabama, or any other employer for purposes  
2 of Section 415 of the Code, any reductions in benefits  
3 required to comply with the provisions of Section 415 of the  
4 Code shall be made first in the benefits provided under this  
5 plan and second in the benefits provided under such other  
6 plans in the order specified in such other plans.

7 4.07 Forfeiture for Cause.

8 Notwithstanding anything in the plan to the  
9 contrary, if a member shall at any time be convicted of a  
10 Class A felony or of an offense under any local, state, or  
11 federal law that would result in the conviction of a Class A  
12 felony in the State of Alabama, all benefits that would  
13 otherwise be payable to him or her under the plan shall be  
14 forfeited. However, he or she shall be treated under the plan  
15 as if he or she had died on the date immediately preceding the  
16 conviction for purposes of determining the benefit, if any, ,  
17 payable to his or her eligible family members under 4.04 if he  
18 or she is convicted before his or her annuity starting date or  
19 to his or her beneficiary under 5.02 if he or she is convicted  
20 after his or her annuity starting date. For purposes of this  
21 section, a Class A felony shall be a Class A felony as defined  
22 by Title 13A of the Code of Alabama 1975 as in effect on the  
23 plan's effective date.

24 Section 6. ARTICLE 5. PAYMENT OF BENEFITS.

25 5.01 Payment of Benefits.

26 (a) Benefits payable to a member under 4.01, 4.02,  
27 or 4.03(a) shall be payable in monthly installments beginning

1 on the first day after the latest of (1) the day the member  
2 retires or terminates his or her employment, (2) the board  
3 approves the member's benefit or (3) the member has elected an  
4 optional form of benefit in accordance with 5.03; however, if  
5 a member's benefit had not commenced by the later of the first  
6 day following his or her termination of employment as a  
7 uniformed officer or the April 1 following the calendar year  
8 in which he or she attains age 70 1/2, he or she shall begin  
9 to receive his or her benefit on such date in accordance with  
10 Option 1 in 5.02 if he or she is not married on such date or  
11 in accordance with the 50 percent survivor benefit in Option 2  
12 of 5.02 with his or her spouse as his or her beneficiary if he  
13 or she is married on such date. Once a member elects an  
14 optional form of benefit, any benefits which would otherwise  
15 have been paid to him or her had he or she elected the  
16 optional form of benefit when he or she was first eligible to,  
17 do so shall be paid to him or her in a lump sum, without  
18 interest and without any actuarial adjustment for the delay in  
19 payment.

20 (b) If a member entitled to a benefit under 4.01,  
21 4.02, or 4.03(a) dies prior to his or her benefit commencing  
22 under this section, a death benefit shall be paid on his or  
23 her behalf under the provisions of 4.04(a) if he or she is  
24 survived by an eligible family member or under the provisions  
25 of 4.04(b) if he or she is not survived by an eligible family  
26 member.

27 5.02 Optional Forms of Payment.

1 Any member entitled to a benefit under 4.01, 4.02,  
2 or 4.03(a) may elect to receive the benefit payable to him or  
3 her in one of the following optional forms:

4 Option 1. A pension payable during the member's  
5 life only with no benefits payable upon his or her death.

6 Option 2. A modified pension of equivalent  
7 actuarial value to his or her benefit determined under Option  
8 1, payable during the member's life, and after his or her  
9 death payable at 50 percent or 100 percent, as the member may  
10 elect, of the rate of his or her modified pension during the  
11 life of, and to, his or her beneficiary.

12 Option 3.. A modified pension of equivalent  
13 actuarial value to his or her benefit determined under Option  
14 1, payable during the member's life, and after his or her  
15 death payable at 50 percent or 100 percent, as the member may  
16 elect, of the rate of his or her modified pension during the ,  
17 life of, and to, his or her beneficiary; provided, however, if  
18 the member's beneficiary predeceases the member, the member  
19 shall thereafter receive 100 percent of his or her pension for  
20 the remainder of his or her life and no benefits shall be  
21 payable upon the member's death.

22 If a member dies after his or her benefit payments  
23 have commenced, any payments continuing on to his or her  
24 beneficiary shall be distributed at least as rapidly as under  
25 the method of distribution being used as of the member's date  
26 of death.

27 5.03 Election of Options.



1           (a) An election under 5.02 shall be made in a time  
2     and manner determined by the board and shall be signed by the  
3     member and witnessed by a notary.

4           (b) An election of an option under 5.02 may be  
5     revoked and subsequent elections and revocations may be made,  
6     in a time and manner determined by the board, prior to the  
7     member's annuity starting date. An election of an optional  
8     benefit shall be effective on the member's annuity starting  
9     date and may not be modified or revoked after his or her  
10    annuity starting date. A revocation of any election shall be  
11    effective when the completed form is filed with the board. If  
12    a member who has elected an optional benefit dies before his  
13    or her annuity starting date, the election shall be void. If  
14    the beneficiary designated under an option dies before the  
15    date the election of the option becomes effective, the  
16    election shall be void.

17           5.04 Distribution Limitation.

18           Notwithstanding any other provision of this Article  
19    5, all distributions from this plan shall conform to the  
20    regulations issued under Section 401(a)(9) of the Code,  
21    including the incidental death benefit provisions of Section  
22    401(a)(9)(G) of the Code. Further, such regulations shall  
23    override any plan provision that is inconsistent with Section  
24    401(a)(9) of the Code. The life expectancies of members and  
25    their spouses shall not be recalculated.

26           5.05 Direct Rollover of Certain Distributions.

1           (a) Notwithstanding any provision of the plan to the  
2 contrary that would otherwise limit a distributee's election  
3 under this article, a distributee may elect, at the time and  
4 in the manner prescribed by the board, to have any portion of  
5 an eligible rollover distribution paid directly to an eligible  
6 retirement plan specified by the distributee in a direct  
7 rollover.

8           (b) The following definitions apply to the terms  
9 used in this section.

10           (i) An "eligible rollover distribution" is any  
11 distribution of all or any portion of the balance to the  
12 credit of the distributee, except that an eligible rollover  
13 distribution does not include any distribution that is one of  
14 a series of substantially equal periodic payments, not less  
15 frequently than annually, made for the life, or life  
16 expectancy, of the distributee or the joint lives, or joint  
17 life expectancies, of the distributee and the distributee's  
18 designated beneficiary, or for a specified period of 10 years  
19 or more; any distribution to the extent such distribution is  
20 required under Section 401(a)(9) of the Code; and the portion  
21 of any distribution that is not includible in gross income;

22           (ii) An "eligible retirement plan" is an individual  
23 retirement account described in Section 408(a) of the Code, an  
24 individual retirement annuity described in Section 408(b) of  
25 the Code, an annuity plan described in Section 403(a) of the  
26 Code, or a qualified trust described in Section 401(a) of the  
27 Code that accepts the distributee's eligible rollover

1 distribution. However, in the case of an eligible rollover  
2 distribution to the surviving spouse, an eligible retirement  
3 plan is an individual retirement account or individual  
4 retirement annuity;

5 (iii) A "distributee" includes a member or former  
6 member and the member's or former member's surviving spouse;  
7 and

8 (iv) A "direct rollover" is a payment by the plan to  
9 the eligible retirement plan specified by the distributee.

10 Section 7. ARTICLE 6. CONTRIBUTIONS.

11 6.01 Fines.

12 The city shall pay into the fund monthly an amount  
13 equal to five percent of all fines and moneys, except costs of  
14 court, paid as a result of prosecutions for violations of  
15 ordinances or laws of the city during the prior month.

16 6.02 Insurance Premiums.

17 (a) On or before the first day of March of each  
18 year, each insurance company writing fire insurance on  
19 property within the city limits and its police jurisdiction  
20 shall pay to the city an amount equal to four percent of its  
21 gross premiums, including all renewal premiums, less return  
22 premiums, collected by the company on such policies in effect  
23 during the preceding year in the city and its police  
24 jurisdiction. The city shall credit one-half of this amount  
25 to the fund within 30 days of its receipt by the city. The  
26 remaining one-half shall be retained by the city and credited  
27 against the insurance companies' business license obligations.

1           (b) Each such insurance company shall, on or before  
2 the due date of such payment, file with the city finance  
3 director a sworn, written statement showing the gross amount  
4 of premiums, including all renewal premiums, less return  
5 premiums, received on such policies during the preceding year.  
6 Any insurance company failing to file such statement shall  
7 forfeit to the city one thousand dollars (\$1,000), to be  
8 recovered against such insurance company or its agents by suit  
9 brought in the name of the city. All such forfeitures and  
10 penalties shall be credited to the fund within 30 days of  
11 their receipt by the city.

12           (c) If any insurance company fails to pay the fees  
13 required by this section within 30 days from the date the fees  
14 are due, the fees shall be increased by 15 percent for the  
15 first 30 days, or fraction thereof, that they are delinquent,  
16 plus interest at the rate of one percent per month; and shall,  
17 be increased by an additional 15 percent for a delinquency of  
18 60 or more days, plus interest at the rate of one percent per  
19 month. Nothing in this paragraph (c) however, shall be  
20 construed as authorizing any delay in payment, and the board  
21 or the city may file suit to recover the fees, penalties, and  
22 interest imposed by this section, with all such sums recovered  
23 becoming part of the fund.

24           (d) For purposes of this section, "fire insurance"  
25 means any line which insures property against the risk of loss  
26 by fire, including homeowners' and vehicle policies. Where a  
27 policy issued has more than one type of coverage, the company

1 shall pay only on that portion of the premium attributable to  
2 the fire coverage.

3 (e) The contributions required by this section are  
4 separate and apart from any fees or taxes levied or assessed  
5 by the city and shall be in addition to any such fees or  
6 taxes. The city shall be responsible for collecting the fees  
7 required by this section.

8 6.03 Member Contributions.

9 Eight percent of the salary of every uniformed  
10 officer with less than 30 years of service shall be deducted  
11 from his or her pay and shall be transferred to the fund on a  
12 monthly basis. No amounts shall be deducted from the pay of a  
13 uniformed officer who has at least 30 years of service.  
14 Records shall be kept by the board showing the amount  
15 contributed by each uniformed officer. The uniformed  
16 officers' contributions required by 6.03 are mandatory. The ,  
17 contributions under 6.03 are designated as member  
18 contributions; however, the contributions shall be "picked up"  
19 by the city and shall be treated as paid by the city in lieu  
20 of contributions by members in accordance with Section  
21 414(h)(2) of the Code. The member does not have the option to  
22 receive any amounts contributed by the city under 6.03 in  
23 cash. If the city's contribution to the plan under 6.05 is  
24 zero for a plan year, the board may decrease the contributions  
25 by the members under 6.03 pro rata during that plan year as  
26 determined by the actuary designated by the board under 6.05  
27 provided the sum of the amounts contributed under 6.01, 6.02,

1 6.03, and 6.04 shall be at least equal to the annual actuarial  
2 cost as determined under 6.05(c) for such plan year and the  
3 board finds the proposed reduction will not have a material  
4 adverse impact on the funding of the plan.

5 6.04 Donations.

6 Any person, firm, association, or corporation may  
7 donate money to the fund and the board may take by gift,  
8 grant, devise, or bequest any money, personal property, real  
9 estate, or any interest therein or any right of property for  
10 the benefit of the fund. Any gift, grant, devise, or bequest  
11 may be absolute or in fee simple or upon condition that only  
12 the rents, income, and profits arising therefrom shall be  
13 applied to the purposes for which the fund is created. Any  
14 money or property donated to the fund pursuant to 6.04 which  
15 is a gift, grant, devise, or bequest for which absolute  
16 ownership is granted to the fund shall be added to the fund to  
17 be administered by the board in its capacity as trustee. If  
18 any money or property donated to the fund pursuant to 6.04 is  
19 not a grant of absolute ownership, then the board shall take  
20 such steps which are necessary to preserve its interest in  
21 such money or property, including the appointment of a trustee  
22 who may be paid from the income or corpus of the money or  
23 property.

24 6.05 City Contributions.

25 (a) The city shall contribute to the fund an amount  
26 equal to the excess, if any, of (i) the annual actuarial cost  
27 for the plan determined as of each October 1 over (ii) all

1 amounts contributed to the fund under 6.01, 6.02, and 6.03  
2 during the plan year beginning on the date the annual  
3 actuarial cost is determined. The city's contribution under  
4 6.05 shall be paid to the fund no later than 18 months  
5 following the date as of which such annual actuarial cost is  
6 determined.

7 (b) The city may make such additional contributions  
8 to the fund as it deems advisable to insure the fiscal  
9 integrity of the fund.

10 (c) For purposes of 6.05, "annual actuarial cost"  
11 means the annual cost of the plan as determined by the  
12 enrolled actuary, as defined in Section 7701(a)(35) of the  
13 Code, designated by the board using reasonable actuarial  
14 assumptions and methods which would meet the requirements of  
15 Section 412 of the Code, where such annual cost is the sum of:

16 (i) The annual actuarial normal cost;

17 (ii) The increasing annual payment required to  
18 amortize the unfunded actuarial accrued liability as of  
19 October 1, 1996, within 30 years of that date, where each  
20 subsequent annual payment increases by four percent;

21 (iii) For determinations made on or after October 1,  
22 1997, the level-dollar annual payment required to amortize the  
23 change in the unfunded actuarial accrued liability due to plan  
24 changes within 30 years of the October 1 coincident with or  
25 next following the effective date of the plan change;

26 (iv) For determinations made on or after October 1,  
27 1997, the level-dollar annual payment required to amortize the

1 change in the unfunded actuarial accrued liability due to  
2 assumption or method changes within 10 years of the October 1  
3 coincident with or next following the effective date of the  
4 assumption or method change; and

5 (v) For determinations made on or after October 1,  
6 1997, the level-dollar annual payment required to amortize the  
7 change in the unfunded actuarial accrued liability due to plan  
8 experience gains and losses within five years of the October 1  
9 coincident with or next following the date as of which such  
10 experience gain or loss is determined, and further provided  
11 that such experience gains and losses shall be determined at  
12 least annually.

13 6.06 Return of Contributions.

14 The city may recover without interest the amount of  
15 its contributions to the plan made on account of a mistake in  
16 fact, reduced by any investment loss attributable to those  
17 contributions, if recovery is made within one year after the  
18 date of those contributions.

19 Section 8. ARTICLE 7. ADMINISTRATION OF PLAN.

20 7.01 Appointment of Board.

21 (a) The board is responsible for the general  
22 administration of the plan and for carrying out the provisions  
23 of the plan. The board shall consist of (i) three members to  
24 be elected from the uniformed officers in the city's police  
25 department by the uniformed officers in that department, (ii)  
26 three members to be elected from the uniformed officers in the  
27 city's fire department by the uniformed officers in that



1 department, (iii) two persons, who must be city residents, at  
2 least age 21 and not receiving any salary from the city for  
3 services as an employee of the city and not related beyond the  
4 limits of the nepotism law for state service as prescribed in  
5 Section 41-1-5 of the Code of Alabama 1975, to any active  
6 employee of the city fire department or police department,  
7 appointed by the city council or like governing body of the  
8 city, and (iv) the city's finance director. All board  
9 members, except the finance director, shall serve three year  
10 terms. The person serving as finance director shall serve as  
11 a board member as long as he or she remains in that position.  
12 Any member of the board may resign by delivering his or her  
13 written resignation to the secretary of the board.

14 (b) The mayor or like governing body of the city  
15 shall appoint, subject to the merit system of the city and  
16 subject to the approval of the board, an executive secretary  
17 to the board. The secretary shall be responsible for  
18 maintaining all records required by this plan, shall keep and  
19 maintain records of retired members containing a full and  
20 complete history and record of the board's action in retiring  
21 the members, including the member's name, dates of entering  
22 service in the city's police or fire departments, periods of  
23 employment, written requests from members desiring retirement,  
24 dates of retirement, the reasons for such retirements and  
25 other such information as the board may require, and shall  
26 perform such other duties as may be prescribed by the board.  
27 The mayor or like governing body of the city may appoint from

1 time to time, subject to the merit system of the city, an  
2 assistant to the executive secretary. The city shall pay the  
3 salary of the secretary and any assistant to the secretary  
4 appointed pursuant to this section.

5 7.02 Elections.

6 All elections of uniformed officers to the board  
7 shall be by secret ballot and shall be administered by the  
8 city clerk. Elections shall be held no more than six weeks  
9 and no less than two weeks prior to the expiration date for  
10 the term of any elected member of the board, as the city clerk  
11 shall determine. Ballots shall be distributed along with the  
12 uniformed officer's salary warrants and the election shall be  
13 conducted in accordance with such other rules as the city  
14 clerk deems necessary to insure a fair and honest election.  
15 In the event elections are delayed, ~~the incumbent board member~~  
16 ~~shall continue to serve until such time as a successor is~~  
17 ~~elected.~~ the term of the incumbent board member shall expire  
18 on schedule and the position on the board shall remain vacant  
19 until an election is held to fill the vacant position.

20 7.03 Vacancies.

21 Vacancies among the elected members of the board  
22 shall be filled by special election to be called by the city  
23 clerk not later than ~~30 days after the board notifies the~~  
24 ~~clerk of a vacancy~~ 30 days after the vacancy occurs.

25 Vacancies among the appointed members of the board shall be  
26 filled by appointment as soon as practicable after such  
27 vacancy occurs.

## 1                   7.04 Duties of Board.

2                   (a) The members of the board shall elect a chair  
3 from their number; may appoint from their number such  
4 subcommittees with such powers as they shall determine; may  
5 authorize one or more of their number or any agent to execute  
6 or deliver any instrument or make any payment on their behalf;  
7 may retain counsel, employ agents and provide for such  
8 clerical, accounting, actuarial, financial, and consulting  
9 services as they may require in carrying out the provisions of  
10 the plan; and may allocate among themselves or delegate to  
11 other persons all or such portion of their duties under the  
12 plan as they, in their sole discretion, shall decide.

13                   (b) The board shall have full power to invest and  
14 reinvest the fund in such investments as the board may from  
15 time to time approve and to hold, purchase, sell, assign,  
16 transfer, and dispose of any such investments in which the  
17 fund shall have been invested.

## 18                   7.05 Establishment of Rules.

19                   Subject to the limitations of the plan, the board  
20 from time to time shall establish rules for the administration  
21 of the plan and the transaction of its business. The board  
22 shall have discretionary authority to interpret the plan and  
23 to make factual determinations, including, but not limited to,  
24 determination of an individual's eligibility for plan  
25 participation, the right and amount of any benefit payable  
26 under the plan and the date on which any individual ceases to  
27 be a member. The determination of the board as to the

1 interpretation of the plan or any disputed question shall be  
2 conclusive and final to the extent permitted by applicable  
3 law.

4 7.06 Meetings.

5 (a) The board shall meet not less than once each  
6 month and at such other times as may be considered necessary  
7 by the chair of the board. All meetings shall be upon such  
8 notice, at such place or places, and at such time or times as  
9 the board may from time to time determine. Five members of  
10 the board shall constitute a quorum for the transaction of  
11 business. Board members must be present to vote; no proxies  
12 shall be allowed. Each board member shall have one vote.  
13 Action shall be taken by a majority of the votes cast.

14 (b) The board shall keep separate and adequate  
15 records of all its meetings and proceedings. The records  
16 shall be public and shall be subject to inspection during  
17 normal business hours to the extent required by Alabama law.

18 7.07 Compensation and Bonding.

19 No board member shall receive any compensation from  
20 the plan for his or her services as such; however, board  
21 members may be reimbursed for any actual expenses they incur  
22 on board business. No bond or other security shall be  
23 required of any board member in that capacity.

24 7.08 Prudent Conduct.

25 The members of the board shall use that degree of  
26 care, skill, prudence, and diligence that a prudent person

1 acting in a like capacity and familiar with such matters would  
2 use in a similar situation.

3 7.09 Maintenance of Accounts.

4 The board shall maintain accounts showing the fiscal  
5 transactions of the plan and shall keep in convenient form  
6 such data as may be necessary for actuarial valuations of the  
7 plan.

8 7.10 Service in More than One Fiduciary Capacity.

9 Any individual, entity, or group of persons may  
10 serve in more than one fiduciary capacity with respect to the  
11 plan and/or the fund.

12 7.11 Limitation of Liability.

13 The city, the board, the members of the board, and  
14 any officer, employee, or agent of the city shall not incur  
15 any liability individually or on behalf of any other  
16 individuals or on behalf of the city for any act, or failure ,  
17 to act, made in good faith in relation to the plan or the  
18 fund.

19 7.12 Indemnification.

20 The members of the board and the officers,  
21 employees, and agents of the city shall be indemnified against  
22 any and all liabilities arising by reason of any act, or  
23 failure to act, in relation to the plan or the fund,  
24 including, without limitation, expenses reasonably incurred in  
25 the defense of any claim relating to the plan or the fund, and  
26 amounts paid in any compromise or settlement relating to the  
27 plan or the fund, except for actions or failures to act made

1 in bad faith. The foregoing indemnification shall be from the  
2 fund to the extent of those funds and to the extent permitted  
3 under applicable law; otherwise, from the assets of the city.

4 7.13 City Attorney to Represent Board.

5 It shall be the duty of the city attorney to give  
6 advice to the board in all matters pertaining to the duties of  
7 the board whenever requested to do so; to represent and defend  
8 the board and its individual members in all suits and actions  
9 at law or in equity that may be brought against the board, its  
10 individual members or the city in connection with this plan;  
11 and to bring all suits and actions in the board's behalf that  
12 may be approved by the board, other than suits against the  
13 city and its agencies. However, nothing in 7.13 shall in any  
14 way limit the board's authority to employ such outside legal  
15 counsel as it may see fit in any matter relating to its duties  
16 under this plan and to pay reasonable attorney's fees out of  
17 the fund.

18 7.14 Expenses of Administration.

19 Except as may be otherwise specified in this plan,  
20 all expenses that arise in connection with the administration  
21 of the plan, including, but not limited to, the compensation  
22 and other expenses and charges of any counsel, accountant,  
23 specialist, or other person who has been retained by the board  
24 in connection with the administration of the plan, shall be  
25 paid from the fund to the extent not paid by the city.

26 7.15 Deferred Retirement Option Plan ("DROP Plan").

1           The board may create and administer a deferred  
2 retirement option plan ("DROP Plan") on such terms and  
3 conditions as the board may prescribe; however, any DROP Plan  
4 created by the board shall be at no cost and with no liability  
5 to the city. The plan's actuary shall certify to the city, at  
6 or before the adoption of the DROP Plan and at or before the  
7 adoption of any amendment to the DROP Plan, that its terms do  
8 not create any cost or liability to the city. Any member who  
9 elects to enter the DROP Plan shall have no recourse against  
10 the city for any claims with respect to the DROP Plan or  
11 payments under the DROP Plan.

12           Section 9.   ARTICLE 8.   MANAGEMENT OF FUNDS.

13           8.01 Trustee.

14           All the funds of the plan shall be held by the board  
15 as trustee of the plan. In addition to the powers granted to  
16 the board by the plan, the board shall have all powers granted  
17 to trustees under any Alabama statute or regulation which are  
18 necessary or desirable for it to fulfill its duties with  
19 respect to the plan, which powers are specifically  
20 incorporated by reference into this plan. The city shall have  
21 no liability for the payment of benefits under the plan nor  
22 for the administration of the funds paid over to the board.

23           8.02 Exclusive Benefit Rule.

24           Except as otherwise provided in the plan, no part of  
25 the corpus or income of the fund shall be used for, or  
26 diverted to, purposes other than for the exclusive benefit of  
27 members and beneficiaries entitled to benefits under the plan

1 and paying plan expenses not otherwise paid by the city,  
2 before the satisfaction of all liabilities with respect to  
3 such members and beneficiaries. No person shall have any  
4 interest in or right to any part of the earnings of the fund,  
5 or any right in, or to, any part of the assets held under the  
6 plan, except as and to the extent expressly provided in the  
7 plan.

8 Section 10. ARTICLE 9. AMENDMENT, MERGER, AND  
9 TERMINATION.

10 9.01 Amendment of Plan.

11 (a) The board, with approval by a majority vote of  
12 the city council or like governing body of the city, reserves  
13 the right at any time and from time to time, and retroactively  
14 if deemed necessary or appropriate, to amend in whole or in  
15 part any or all of the provisions of the plan. However, no  
16 amendment shall make it possible for any part of the fund to  
17 be used for, or diverted to, purposes other than for the  
18 exclusive benefit of persons entitled to benefits under the  
19 plan, before the satisfaction of all liabilities with respect  
20 to such persons. The board's actions in amending the plan  
21 shall be effective without the approval of, or action by, any  
22 other governmental entity other than the city council as  
23 described in 9.01(a). Nothing in this section shall be  
24 construed as preventing a uniformed officer from requesting  
25 the Alabama Legislature to amend any provision of the plan.

26 (b) Notwithstanding the provisions of 9.01(a), any  
27 plan amendment which will affect the plan's funding or the



1 members' benefits shall require the approval of the Alabama  
2 Legislature.

3 9.02 Termination of Plan.

4 The city may terminate the plan with the consent of  
5 the majority of the plan's members at the time of the  
6 termination, for any reason at any time. In case of  
7 termination of the plan, the rights of members to their  
8 benefits as of the date of the termination, to the extent then  
9 funded or protected by law, if greater, shall be  
10 nonforfeitable. The fund shall be used for the exclusive  
11 benefit of persons entitled to benefits under the plan as of  
12 the date of termination, except as provided in 6.06. However,  
13 any funds not required to satisfy all liabilities of the plan  
14 for benefits because of erroneous actuarial computation shall  
15 be returned to the city. In the event of a partial  
16 termination of the plan, the provisions of this section shall,  
17 be applicable to the members affected by that partial  
18 termination.

19 9.03 Limitation Concerning Highly Compensated  
20 Employees or Highly Compensated Former Employees.

21 (a) The provisions of this section shall apply (i)  
22 in the event the plan is terminated, to any member who is a  
23 highly compensated employee of the city and (ii) in any other  
24 event, to any member who is one of the 25 highly compensated  
25 employees of the city with the greatest compensation in any  
26 plan year. The amount of the annual payments to any one of  
27 the members to whom this section applies shall not be greater

1 than an amount equal to the annual payments that would be made  
2 on behalf of the member during the year under a single life  
3 annuity that is of equivalent actuarial value to the member's  
4 benefit.

5 (b) If, (i) after payment of the benefit to any one  
6 of the members to whom this section applies, the value of plan  
7 assets equals or exceeds 110 percent of the value of current  
8 liabilities, as that term is defined in Section 412(1)(7) of  
9 the Code, of the plan, (ii) the value of the benefit of any  
10 one of the members to whom this section applies is less than  
11 one percent of the value of current liabilities of the plan,  
12 or (iii) the value of the benefit payable to a member to whom  
13 this section applies does not exceed three thousand five  
14 hundred dollars (\$3,500), the provisions of paragraph (a)  
15 above will not be applicable to the payment of benefits to  
16 such member.

17 (c) Notwithstanding paragraph (a) of this section,  
18 in the event the plan is terminated, the restrictions of this  
19 section shall not be applicable if the benefit payable to any  
20 highly compensated employee is limited to a benefit that is  
21 nondiscriminatory under Section 401(a)(4) of the Code.

22 (d) If it should subsequently be determined by  
23 statute, court decision acquiesced in by the Commissioner of  
24 Internal Revenue, or ruling by the Commissioner of Internal  
25 Revenue, that the provisions of this section are no longer  
26 necessary to qualify the plan under the Code, this section

## ARTICLE 10. GENERAL PROVISIONS

### 10.01 Nonalienation.

Except as required by any applicable law, no benefit under the plan shall in any manner be anticipated, assigned, or alienated, and any attempt to do so shall be void.

### 10.02 Fund not Subject to Attachment, etc.

No portion of the Fund shall, before or after its order for distribution, be seized or held or in anywise subject to garnishment or levy of execution or attachment issued out of or by any court of this state, or any other state, so far as any debt, damages, demand, claim, judgment or decree against any beneficiary in such funds, but shall be exempt therefrom.

### 10.03 Conditions of Employment Not Affected by Plan.

The establishment of the plan shall not confer any legal rights upon any uniformed officer or other person for a continuation of employment, nor shall it interfere with the right of the city, which right is hereby reserved, to discharge any uniformed officer and to treat him or her without regard to the effect which that treatment might have upon him or her as a member or potential member of the plan.

### 10.04 Facility of Payment.

If the board shall find that a member or other person entitled to a benefit is unable to care for his or her affairs because of illness or accident or because he or she is a minor, the board may direct that any benefit due him or her, unless claim shall have been made for the benefit by a duly appointed legal representative, be paid to his or her spouse, a child, a parent or other blood relative, or to a person with whom he or she resides. Any payment so made shall be a complete discharge of the liabilities of the plan for that benefit.

10.05 Information.

Each member or other person entitled to a benefit, before any benefit shall be payable to him or her or on his or her account under the plan, shall file with the board the information that it shall require to establish his or her rights and benefits under the plan.

10.06 Appeals from Board Decisions.

(A) Within 10 days after any final decision of the board, the city or any person aggrieved at the decision of the board may appeal the decision to the Circuit Court of Mobile County by filing a notice and request for an appeal with the clerk of the circuit court and serving notice of the appeal upon any member of the board. The appeal shall be heard at the earliest possible date by a judge sitting without a jury. It shall not be necessary to enter exceptions to the rulings of the board and no bond shall be required for such an appeal.

(B) The circuit court appeal shall not constitute a proceeding de novo; instead, the court shall review the board's decision using the same standard of review the court uses in deciding common law writs of certiorari.

(C) An appeal may be taken from any decision of the circuit court to the court of appeals or the Supreme Court as now provided by law, under the same standard of review applicable to the trial court.

10.07 Prevention of Escheat.

If the board cannot ascertain the whereabouts of any person to whom a payment is due under the plan, the board may, after such payment is due and prior to the funds escheating to the city or the State of Alabama under any applicable escheat laws, mail a notice of such due and owing payment to the last known address of such person as shown on the records of the board or the city. If such person has not made written claim therefor within three months of the date of the

mailing, the board may, if it so elects and upon receiving advice from counsel to the plan, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the plan and the amount thereof applied to reduce the contributions of the city. Upon such cancellation, the plan shall have no further liability therefore except that, in the event such person or his or her beneficiary later notifies the board of his or her whereabouts and requests the payment or payments due to him or her under the plan, the amount so applied shall be paid to him or her in accordance with the provisions of the plan.

#### 10.08 Severability.

The provisions of this plan are severable. If any part of the plan is declared invalid or unconstitutional, such declaration shall not affect the remaining provisions of the plan.

#### 10.09 Construction


(A) The plan shall be construed, regulated, and administered under the laws of the State of Alabama, except where the provisions of the Code or other applicable federal statutes control.


1           (b) The titles and headings of the articles and  
2 sections in this plan are for convenience only. In case of  
3 ambiguity or inconsistency, the text rather than the titles or  
4 headings shall control.

5           Section 12. Act 243, H. 278, 1964 First Special  
6 Session (Acts 1964, p. 326), Act 400, H. 564, 1965 Regular  
7 Session (Acts 1965, p. 576), Act 359, H. 366, 1966 Special  
8 Session (Acts 1966, p. 499), Act 180, H. 167, 1967 Regular  
9 Session (Acts 1967, p. 231), Act 1484, S. 1030, 1971 Regular  
10 Session (Acts 1971, p. 2540), Act 887, S. 740, 1978 Regular  
11 Session (Acts 1978, p. 1315), Act 80-339, H. 875, 1980 Regular  
12 Session (Acts 1980, p. 458), Act 85-231, H. 211, 1985 Regular  
13 Session (Acts 1985, p. 130), Act 85-312, H. 176, 1985 Regular  
14 Session (Acts 1985, p. 211), Act 85-938, H. 129, 1985 Special  
15 Session (Acts 1985, p. 241), Act 86-475, H. 478, 1986 Regular  
16 Session (Acts 1986, p. 900), Act 90-198, S. 566, 1990 Regular  
17 Session (Acts 1990, p. 229), Act 91-701, H. 980, 1991 Regular  
18 Session (Acts 1991, p. 1365), and Act 95-571, H. 598, 1995  
19 Regular Session (Acts 1995, p. 1194), are repealed.

20           Section 13. The retirement plan provided for in  
21 this act shall not have retroactive application.

22           Section 14. This act shall become effective on  
23 October 1, 1997, following its passage and approval by the  
24 Governor, or its otherwise becoming law.

  
Speaker of the House of Representatives

  
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 April 23, 1997, as amended.

Greg Pappas  
Clerk

Senate

MAY 19 1997

Passed

APPROVED 5-29-1997

TIME 2:44 P.M.

  
GOVERNOR

Alabama Secretary Of State

Act Num....: 97-689  
Bill Num....: H-919

Recv'd 05/29/97 05:30pm HMB

## RESOLUTION

**WHEREAS**, Alabama law has, since 1964, prohibited the attachment and garnishment of funds held in trust by the Board for the Police and Firefighters Retirement Plan; and

**WHEREAS**, the Retirement Plan was revised in 1997 by Act No. 689, H. 919, with changes to be effective October 1, 1997; and

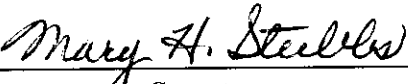
**WHEREAS**, this prohibition against attachment and garnishment was inadvertently omitted from the 1997 Retirement Plan amendment; and

**WHEREAS**, the Board finds it desirable and beneficial to retain this provision in the current Retirement Plan:

**NOW, THEREFORE, BE IT RESOLVED** that pursuant to Article 9 of the Retirement Plan, the Board hereby approves and adopts the attached amendment to Article 10 of the Retirement Plan; and

**BE IT FURTHER RESOLVED** that upon approval by the Mobile City Council, Article 10 shall be amended with an effective date of October 1, 1997.

Adopted: February 25, 1998

  
Secretary



## ARTICLE 10. GENERAL PROVISIONS

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### 10.04 Facility of Payment.

If the board shall find that a member or other person entitled to a benefit is unable to care for his or her affairs because of illness or accident or because he or she is a minor, the board may direct that any benefit due him or her, unless claim shall have been made for the benefit by a duly appointed legal representative, be paid to his or her spouse, a child, a parent or other blood relative, or to a person with whom he or she resides. Any payment so made shall be a complete discharge of the liabilities of the plan for that benefit.

10.05 Information.

Each member or other person entitled to a benefit, before any benefit shall be payable to him or her or on his or her account under the plan, shall file with the board the information that it shall require to establish his or her rights and benefits under the plan.

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(A) Within 10 days after any final decision of the board, the city or any person aggrieved at the decision of the board may appeal the decision to the Circuit Court of Mobile County by filing a notice and request for an appeal with the clerk of the circuit court and serving notice of the appeal upon any member of the board. The appeal shall be heard at the earliest possible date by a judge sitting without a jury. It shall not be necessary to enter exceptions to the rulings of the board and no bond shall be required for such an appeal.

(B) The circuit court appeal shall not constitute a proceeding de novo; instead, the court shall review the board's decision using the same standard of review the court uses in deciding common law writs of certiorari.

(C) An appeal may be taken from any decision of the circuit court to the court of appeals or the Supreme Court as now provided by law, under the same standard of review applicable to the trial court.

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If the board cannot ascertain the whereabouts of any person to whom a payment is due under the plan, the board may, after such payment is due and prior to the funds escheating to the city or the State of Alabama under any applicable escheat laws, mail a notice of such due and owing payment to the last known address of such person as shown on the records of the board or the city. If such person has not made written claim therefor within three months of the date of the

mailing, the board may, if it so elects and upon receiving advice from counsel to the plan, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the plan and the amount thereof applied to reduce the contributions of the city. Upon such cancellation, the plan shall have no further liability therefore except that, in the event such person or his or her beneficiary later notifies the board of his or her whereabouts and requests the payment or payments due to him or her under the plan, the amount so applied shall be paid to him or her in accordance with the provisions of the plan.

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#### 10.09 Construction

(A) The plan shall be construed, regulated, and administered under the laws of the State of Alabama, except where the provisions of the Code or other applicable federal statutes control.



ACT No. 2001-518

1 HB804

2 34091-3

3 By Representative Crigler (N & P)

4 RFD: Mobile County Legislation

5 First Read: 11-APR-2001



1  
2 Enrolled, An Act,

3 To amend Sections 2, 4, and 5 of Act 97-689 of the  
4 1997 Regular Session, to provide further for certain  
5 definitions, certain disability benefits, restoration to  
6 service, and prior service credit under the Retirement System  
7 for Police and Firefighters of the City of Mobile, Alabama.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 2, 4, and 5 of Act 97-689 of the  
10 1997 Regular Session (Act 97-689, p. 1379), are amended to  
11 read as follows:

12 "Section 2. ARTICLE 1. DEFINITIONS. As used in this  
13 act, the following words and terms shall have meanings as  
14 follows:

15 "1.01 ANNUITY STARTING DATE. The first day for which  
16 a benefit is payable as an annuity or any other form under  
17 5.01.

18 "1.02 BENEFICIARY. The person or persons named by a  
19 member by written designation filed with the board to receive  
20 payments under this plan after the member's death. The member  
21 may not change his or her beneficiary after his or her annuity  
22 starting date. If no beneficiary designation is in effect at  
23 the member's death, or if no person so designated survives the  
24 member, the member's surviving spouse, if any, shall be deemed

1 to be the beneficiary, otherwise the beneficiary shall be the  
2 member's estate.

3 "1.03 BOARD. The Police and Fire Pension Board as  
4 constituted under 7.01, or its delegate.

5 "1.04 BREAK IN SERVICE. A period of absence which  
6 would constitute a break in the member's service under the  
7 Mobile County Personnel Board rules; provided, however, that  
8 periods of leave and periods of service in the uniformed  
9 services of the United States determined in accordance with  
10 3.02 of the plan, shall not constitute a break in service.

11 "1.05 CITY. The City of Mobile, Alabama.

12 "1.06 CODE. The Internal Revenue Code of 1986, as  
13 amended from time to time.

14 "1.07 EQUIVALENT ACTUARIAL VALUE. The equivalent  
15 value when computed on the basis of the 1995 Buck Mortality  
16 Table (Male) for Members, the 1995 Buck Mortality Table  
17 (Female) for Beneficiaries and an interest rate of seven  
18 percent per year, compounded annually.

19 "1.08 FINAL AVERAGE SALARY. For a member who first  
20 became a uniformed officer prior to March 28, 1990, the  
21 average of the member's salary for his or her final 36 months  
22 of service and, for a member who first became a uniformed  
23 officer on or after March 28, 1990, the average of the  
24 member's salary for his or her final 60 months of service. For  
25 purposes of this definition, a uniformed officer who has a

1 break in service exceeding one year shall be deemed to first  
2 become a uniformed officer on his or her first day of service  
3 after his or her last break in service. Notwithstanding  
4 anything to the contrary in this section, if a member becomes  
5 disabled under 4.02(a) prior to completing 36 or 60 months of  
6 service, as the case may be, his or her final average salary  
7 shall be the average of his or her salary for all months of  
8 service.

9 "1.09 FUND. The assets of the plan held in trust by  
10 the board pursuant to 8.01 of the retirement plan.

11 "1.10 HIGHLY COMPENSATED EMPLOYEE. An individual  
12 described in Section 414(q) of the Code.

13 "1.11 LEAVE. A period of absence from work during  
14 which the member is entitled to a leave under the provisions  
15 of the Family and Medical Leave Act of 1993 and its  
16 regulations (i) in order to care for the member's child  
17 following the birth of the child, (ii) because of the  
18 placement of a child with the member for adoption or foster  
19 care, (iii) because of a serious health condition that makes  
20 the member unable to perform his or her duties as a uniformed  
21 officer, or (iv) for purposes of caring for his or her child,  
22 spouse, or parent having a serious health condition.

23 "1.12 MEMBER. Any person included in the membership  
24 of the plan, as provided in Article 2.



1           "1.13 PLAN. The City of Mobile, Alabama Police and  
2 Firefighters Retirement Plan, as provided for in this act.

3           "1.14 PLAN YEAR. The 12-month period beginning on  
4 any October 1.

5           "1.15 SALARY. A member's salary as a uniformed  
6 officer determined in accordance with the pay plan for the  
7 Mobile County Personnel Board. Notwithstanding the foregoing,  
8 the salary of any uniformed officer hired after September 30,  
9 1996, shall not exceed one hundred fifty thousand dollars  
10 (\$150,000), as adjusted in accordance with the provisions of  
11 Section 401(a)(17)(B) of the Code, for any purpose under the  
12 plan, including the determination of final average salary.

13           "In determining the salary of a member, if any  
14 individual is a member of the family of a highly compensated  
15 employee in the group consisting of the 10 highly compensated  
16 employees paid the greatest compensation during the year, then  
17 (i) the individual shall not be considered as a separate  
18 employee and (ii) any salary paid to the individual, and any  
19 applicable benefit on behalf of the individual, shall be  
20 treated as if it were paid to, or on behalf of, the highly  
21 compensated employee. For purposes of 1.15, the member's  
22 "family" shall include only the spouse of the member and any  
23 lineal descendants of the member who have not attained age 19  
24 before the close of the year. If, as a result of the  
25 application of the foregoing family aggregation rules, the one

1 hundred fifty thousand dollars (\$150,000) limit, as adjusted,  
2 on salary is exceeded for uninformed officers hired after  
3 September 30, 1996, then the limit shall be prorated among the  
4 affected individuals in proportion to the individual's salary  
5 as herein determined prior to the application of the limit.

6 "1.16 SERVICE. Service recognized in accordance with  
7 the provisions of Article 3 for purposes of determining a  
8 member's eligibility for a benefit under the plan and the  
9 amount of that benefit.

10 "1.17 UNIFORMED OFFICER. A person employed by the  
11 city's police department or fire department as a police  
12 officer or firefighter, as the case may be, who (a) is  
13 certified as a police officer or firefighter by the State of  
14 Alabama, (b) is in training to be certified by the State of  
15 Alabama as a police officer or firefighter, (c) is employed by  
16 the city's police department or fire department other than as  
17 a certified police officer or firefighter and who was a  
18 participant in the plan immediately preceding the date this  
19 plan became effective in accordance with Section 10.10, or (d)  
20 is in the police or fire cadet program. However,  
21 notwithstanding anything to the contrary in this Section 1.17,  
22 any employee who elected not to participate in the plan in  
23 accordance with the provisions of the act of April 30, 1986,  
24 Act 86-475, Section 11 shall not be considered a uniformed  
25 officer for any purpose under the plan for any period prior to

1 his election to again be covered by this plan. Upon making  
2 such an election the employee shall be considered a uniformed  
3 officer for periods beginning on and after his election is  
4 effective, but only if he otherwise meets the requirements of  
5 this Section 1.17. Any election by such a former uniformed  
6 officer to again be treated as a uniformed officer shall be  
7 made in a time and manner determined by the board.

8 "Section 4. ARTICLE 3. SERVICE.

9 "3.01 Service.

10 "Except as otherwise provided in this article, a  
11 member's service shall be his or her period of service as a  
12 uniformed officer as determined in accordance with the Mobile  
13 County Personnel Board Rules. Service performed other than as  
14 a uniformed officer shall not be included in a member's  
15 service except as provided in 3.02.

16 "3.02 Military Service.

17 "(a) If a member shall have been absent from service  
18 as a uniformed officer because of service in the uniformed  
19 services of the United States and if he or she shall have  
20 returned to service as a uniformed officer having applied to  
21 return while his or her reemployment rights were protected by  
22 law, that absence shall not count as a break in service.

23 "(b) If the member who returns to service as a  
24 uniformed officer in accordance with paragraph (a) above makes  
25 the contributions that would have been required by 6.03 had he

1 or she not been in the uniformed services, his or her period  
2 of service in the uniformed services shall be counted as  
3 service. The member may make those contributions at any time  
4 within a period beginning on his or her return to service as a  
5 uniformed officer which is equal to three times his or her  
6 period of service in the uniformed services, but not longer  
7 than five years. For purposes of determining the amount of the  
8 member's contributions that would have been required by 6.03,  
9 a member's salary during his or her period of service in the  
10 uniformed services shall be deemed to be the salary he or she  
11 would have received for that period had he or she remained  
12 employed as a uniformed officer or, if that salary is not  
13 reasonably certain, his or her average salary for the 12-month  
14 period immediately preceding his or her service in the  
15 uniformed services.

16 "(c) For purposes of 3.02, the terms "service in the  
17 uniformed services of the United States" and "uniformed  
18 services" shall have the meanings given to those terms in  
19 Sections 4303(13) and 4303(16) of the Uniformed Services  
20 Employment and Reemployment Rights Act of 1994, respectively.

21 "3.03 Restoration of Retired Member or Other Former  
22 Member to Service.

23 "(a) If a member entitled to a benefit under 4.01,  
24 4.02, or 4.03(a) of the plan is restored to service as a  
25 uniformed officer, any benefit he or she may be receiving

1 under Article IV shall cease and any election of an optional  
2 benefit in effect shall be void. If he or she is restored to  
3 service as a uniformed officer before he or she has a break in  
4 service exceeding one year, any service to which he or she was  
5 entitled when he or she retired or terminated service shall be  
6 restored to him or her, and upon his or her later retirement  
7 or termination, his or her benefit shall be based on the  
8 benefit formula then in effect and his or her salary and  
9 service before and after his or her break in service, reduced  
10 by an amount that is of equivalent actuarial value to the  
11 benefits he or she received under 4.01 or 4.03(a), if any,  
12 before his or her restoration to service. If he or she is  
13 restored to service as a uniformed officer after having a  
14 break in service exceeding one year, his or her service prior  
15 to the break in service shall be restored to him or her. Upon  
16 his or her later retirement or termination, the benefit he or  
17 she received under 4.01 or 4.03(a), if any, prior to his or  
18 her break in service shall recommence plus he or she shall  
19 receive an additional amount determined under the provisions  
20 of Article IV based on his or her service and his or her  
21 salary after his or her break in service. However, the member  
22 shall not be entitled to an additional benefit under 4.01 or  
23 4.03(a) unless he or she has at least 10 years of service  
24 after he or she is restored to service, and the last 10 years

1 of the service are without a break in service exceeding one  
2 year.

3 "(b) If a member who has received a distribution of  
4 his contributions to the plan under Section 4.03(b) is  
5 restored to service as a uniformed officer and he or she  
6 repays the amount he or she received under Section 4.03(b) of  
7 the plan plus 10 percent interest per annum, his or her period  
8 of service as a uniformed officer prior to his or her  
9 termination of employment shall be restored to him or her and  
10 shall be counted as service. The member may repay the amount  
11 at any time within a period beginning upon his return to  
12 service as a uniformed officer which is equal to three times  
13 his or her period of service prior to his or her termination  
14 of employment, but not longer than five years. Upon his or her  
15 subsequent retirement or termination of employment, his or her  
16 benefit shall be based on his or her service both before and  
17 after his or her initial termination of employment. However,  
18 the member shall not be entitled to any benefit under this  
19 plan after he or she is restored to service as a uniformed  
20 officer unless he or she has at least 10 years of service  
21 without a break in service exceeding one year after he or she  
22 is restored to service.

23 "(c) If a member who has received a distribution of  
24 his or her contributions to prior versions of this plan [Act  
25 of September 2, 1964, No. 243 1964 Ala. Acts 326, as amended

1 by Act 80-339, 85-312, 85-938, 86-475 and 90-198] is restored  
2 to service as a uniformed officer and he or she repays the  
3 amount he or she received plus 10 percent interest per annum,  
4 his or her period of service as a uniformed officer prior to  
5 his or her termination of employment shall be restored to him  
6 or her and shall be counted as service. Provided, however,  
7 that any member desiring to purchase service under this  
8 Section 3.03(b) shall repay the amount not later than five  
9 years from the effective date of this act. Upon his or her  
10 subsequent retirement or termination of employment, his or her  
11 benefit shall be based on his or her service both before and  
12 after his or her initial termination of employment. However,  
13 the member shall not be entitled to any benefit under this  
14 plan after he or she is restored to service as a uniformed  
15 officer unless he or she has at least 10 years of service  
16 without a break in service exceeding one year after he or she  
17 is restored to service.

18 "Section 5. ARTICLE 4. ELIGIBILITY FOR AND AMOUNT OF  
19 BENEFITS.

20 "4.01 Retirement.

21 "(a) Except as provided in 4.07, a member who first  
22 became a uniformed officer prior to March 28, 1990, and who  
23 terminates his or her employment as a uniformed officer on or  
24 after he or she has 20 years of service, the last 10 years of  
25 service being without a break in service exceeding one year,

1 shall have a nonforfeitable right to receive an annual benefit  
2 beginning on the first day following the later of his or her  
3 termination of employment as a uniformed officer or his or her  
4 50th birthday. His or her annual benefit shall be equal to two  
5 and one-half percent of his or her final average salary  
6 multiplied by his or her years of service, but shall not be  
7 less than 50 percent, nor more than 75 percent, of his or her  
8 final average salary.

9           "(b) Except as provided in 4.07, a member who first  
10 became a uniformed officer on or after March 28, 1990, and who  
11 terminates his or her employment as a uniformed officer on or  
12 after he or she has 20 years of service, the last 10 years of  
13 service being without a break in service exceeding one year,  
14 shall have a nonforfeitable right to receive an annual benefit  
15 beginning on the first day following the later of his or her  
16 termination of employment as a uniformed officer or his or her  
17 55th birthday. His or her annual benefit shall be equal to the  
18 sum of (i) two and one-half percent of his or her final  
19 average salary multiplied by his or her years of service not  
20 in excess of 20 years, plus (ii) two and one-fourth percent of  
21 his or her final average salary multiplied by his or her years  
22 of service in excess of 20 years, but not less than 50  
23 percent, nor more than 72 1/2 percent, of his or her final  
24 average salary.



"(c) For purposes of 4.01, a uniformed officer who has a break in service exceeding one year shall be deemed to first become a uniformed officer on his or her first day of service after his or her last break in service.

"4.02 Disability.

"(a) Non-Service Connected Benefit. If a member who has at least 15 years of service becomes permanently physically or mentally disabled other than while performing his or her duties as a uniformed officer by reason of a disability not described in Section 4.02(b)(2), he or she shall receive a monthly disability benefit equal to two and one-half percent of his or her final salary multiplied by his or her years of service, but not more than 60 percent of his or her final salary.

"(b) Service Connected Benefit. If:

"(1) any member becomes permanently physically or mentally disabled while performing his or her duties as a uniformed officer other than due to causes specified in 4.02(b)(2) below; or

"(2) any member who has completed 3 years of service as a uniformed officer becomes permanently physically or mentally disabled due to:

"(i) hypertension,

"(ii) heart disease, or

"(iii) respiratory disease,

"(iv) AIDS,  
"(v) hepatitis, or  
"(vi) cancer.

"The member shall receive a monthly disability benefit equal to 45 percent of the member's final salary at the time the member became disabled; provided, however, any member who can demonstrate to the board that he or she is totally disabled from any gainful employment, shall receive a benefit equal to 60 percent of the member's final salary at the time the member became disabled.

"(c) Disability Standards. A member shall be permanently physically or mentally disabled if:

"(1) There is no other job or service within his or her merit system classification that he or she is capable of performing; and

"(2) Upon entering service as a uniformed officer he or she successfully passed a board-approved physical examination, whether or not such examination was required to enter service as a uniformed officer, which failed to reveal any evidence of a condition which could cause his or her disability.

"(d) Disputes. Any dispute as to whether a job or service is within the member's merit system classification shall be determined solely by the Mobile County Personnel

1 Board in accordance with its rules and regulations governing  
2 such matters.

3 "(e) Presumption. If a member is disabled within the  
4 meaning of 4.02(c) due to hypertension, heart disease,  
5 respiratory disease, AIDS, hepatitis or cancer, his or her  
6 disability shall be deemed to have occurred while performing  
7 his or her duties as a uniformed officer if:

8 "(1) He or she has completed three years of service  
9 as a uniformed officer;

10 "(2) The AIDS, hepatitis, or cancer manifests itself  
11 no later than the end of the tenth year following the member's  
12 retirement from service, regardless of the member's annuity  
13 starting date; and

14 "(3) The city fails to prove by a preponderance of  
15 the evidence that the hypertension, heart disease, respiratory  
16 disease, AIDS, hepatitis or cancer was caused by some other  
17 means or not caused while performing his or her duties as a  
18 uniformed officer.

19 "(f) Reduction in Amount. The disability benefit  
20 paid under this article to any member shall be reduced prior  
21 to:

22 " (1) his or her 50th birthday in the case of a  
23 member who first became a uniformed officer prior to March 28,  
24 1990, or

1           "(2) his or her 55th birthday in the case of a  
2 member who first became a uniformed officer on or after March  
3 28, 1990, to the extent necessary to prevent the sum of the  
4 member's disability benefit plus any earnings, as defined in  
5 Section 203(f)(5) of the Social Security Act, received by the  
6 member from exceeding 150 percent of the member's rate of  
7 salary determined immediately prior to his or her disability.  
8 Any member to whom this paragraph (f) applies shall submit by  
9 June 1 of each year a true and correct copy of his or her  
10 federal and state income tax returns for the preceding year or  
11 other evidence of income as the board may determine.

12           "(g) Commencement. A member eligible to receive a  
13 disability benefit under this article shall begin to receive  
14 the benefit on the first day following the date the board  
15 approves his or her application for a disability benefit and  
16 he or she shall continue to receive the benefit only until the  
17 earlier of the date he or she ceases to be disabled as  
18 provided in 4.02(h) or his or her death. If a member receiving  
19 a disability benefit under 4.02 is found to be no longer  
20 disabled, he or she shall be entitled to receive a benefit  
21 under 4.01 if he or she met the requirements for such a  
22 benefit prior to the date he or she first became disabled.

23           "(h) Proof of Disability. Members shall submit  
24 annually, and at such other times as ordered by the board,  
25 such statements or other evidence of his or her disability as

1 may be required by the board, including the results of an  
2 examination by physicians or other health professionals  
3 selected by the board. Any member applying for or in receipt  
4 of any disability benefits under this section who refuses to  
5 provide the evidence of disability or to allow the examination  
6 shall not receive any disability benefits from this plan until  
7 he or she complies with the board's request. If the board has  
8 reasonable cause to believe that a member receiving a  
9 disability benefit is no longer disabled, the board shall,  
10 upon notice, conduct a hearing to determine the member's  
11 continued eligibility for the benefit and to ascertain whether  
12 the member has received any payments for which the member was  
13 ineligible. If the board finds that the member is no longer  
14 disabled, the board shall discontinue the member's benefit  
15 payments. The board may also file suit in the circuit court to  
16 recover any payments made to any member who has been found to  
17 be ineligible to receive those payments. If the board is the  
18 prevailing party in the action, it may also recover its  
19 reasonable attorney's fees for bringing the suit.

20 "4.03 Termination of Employment.

21 "(a) A member who terminates his or her employment  
22 as a uniformed officer, other than by reason of death or  
23 disability, after he or she has 15 years of service, the last  
24 10 years of service being without a break in service exceeding  
25 one year, but before he or she is eligible to receive a

1 benefit under 4.01 of the plan, shall receive a benefit equal  
2 to the benefit he or she would otherwise receive under 4.01.  
3 The benefit shall be payable in accordance with the provisions  
4 of Article 5 beginning on the first day following the later of  
5 his or her termination of employment as a uniformed officer or  
6 his or her 65th birthday.

7 "(b) If a member who does not have at least 15 years  
8 of service, the last 10 years of service being without a break  
9 in service exceeding one year, terminates his or her  
10 employment as a uniformed officer before becoming eligible for  
11 a retirement benefit under 4.01 for any reason other than  
12 death or disability, he or she shall receive a single sum  
13 equal to his or her contributions to the plan under 6.03 as  
14 soon as practicable following his or her termination of  
15 employment.

16 "4.04 Death.

17 "(a) If a member eligible for a retirement benefit  
18 under 4.01 or a member eligible for a benefit under 4.03(a)  
19 dies prior to his or her annuity starting date, his or her  
20 eligible family members shall receive a benefit equal to the  
21 greater of (i) the benefit they would have received had the  
22 member met the requirements of 4.01 or 4.03(a) of the plan, as  
23 the case may be, retired, or terminated employment on the day  
24 preceding his or her death and begun to receive his or her  
25 benefit in accordance with the 50 percent survivor's benefit

1 in Option 2 of 5.02 or (ii) a single sum equal to the lesser  
2 of (A) twice the member's contributions to the plan under 6.03  
3 or (B) the sum of the member's contributions to the plan under  
4 6.03 plus five thousand dollars (\$5,000). The benefit in  
5 clause (i) shall be converted to a single sum of equivalent  
6 actuarial value for purposes of determining the greater  
7 benefit. Solely for purposes of 4.04(a), a member's eligible  
8 family members shall be his or her spouse if he or she is  
9 married at the date of his or her death or, if he or she is  
10 not married, his or her children under the age of 18. Benefits  
11 under clause (i) will be paid for the eligible family member's  
12 life in the case of a spouse or until the children reach age  
13 18; provided, however, if an unmarried child is mentally or  
14 physically disabled and depends on another person for his or  
15 her support, payments shall continue until the earlier of the  
16 date the child ceases to be dependent on another person for  
17 support, the child's marriage, or the child's death. If  
18 benefits are paid to a member's children under 4.04(a), for  
19 purposes of determining the amount to be paid to each child,  
20 each child will be treated as a joint annuitant, each child  
21 will receive a benefit until he or she reaches age 18 or dies,  
22 if earlier, and each child will receive a benefit of  
23 equivalent actuarial value.

24 "(b) If a member described in 4.04(a) who is not  
25 survived by an eligible family member or any other member not

1 described in 4.04(a), dies prior to receiving a benefit under  
2 4.01 or 4.03 of this plan, as the case may be, an amount equal  
3 to the lesser of (i) twice the member's contributions to the  
4 plan under 6.03 or (ii) the sum of the member's contributions  
5 to the plan under 6.03 plus five thousand dollars (\$5,000)  
6 shall be paid to the member's beneficiary.

7 "(c) Any benefits paid under 4.04 shall be paid as  
8 soon as practicable following the member's death.

9 "(d) If a member dies after his or her annuity  
10 starting date, his or her beneficiary shall receive the  
11 benefits, if any, provided by the form in which his or her  
12 benefit is paid.

13 "4.05 Cost-of-Living Increases.

14 "The board, after consultation with its actuary and  
15 other advisors, may from time to time grant such  
16 cost-of-living increases in the benefits being paid to all  
17 retired members, or certain classes of retired members, as the  
18 board deems prudent, but only if such increases would have no  
19 material adverse impact on the funded status of the plan.

20 "4.06 Maximum Benefit Limitation.

21 "Notwithstanding any provision of the plan to the  
22 contrary, the maximum annual benefit paid to a member shall  
23 not exceed the limitations imposed by Section 415 of the Code  
24 and any regulations issued thereunder. The mortality table  
25 prescribed by the Secretary of the Treasury under Section 417



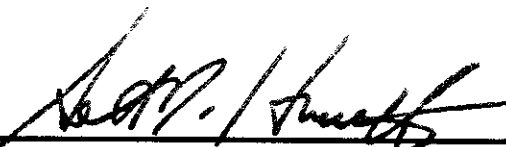
1 (e)(3)(A)(ii)(I) of the Code for the plan year in which the  
2 annuity starting date for the benefit occurs shall be used to  
3 the extent necessary to determine if the benefit exceeds the  
4 limitations imposed by Section 415 of the Code. For purposes  
5 of 4.06, the limitation year shall be the plan year. To the  
6 extent this plan has to be combined with any other plan of the  
7 city, the State of Alabama, or any other employer for purposes  
8 of Section 415 of the Code, any reductions in benefits  
9 required to comply with the provisions of Section 415 of the  
10 Code shall be made first in the benefits provided under this  
11 plan and second in the benefits provided under such other  
12 plans in the order specified in such other plans.

13 "4.07 Forfeiture for Cause.

14 "Notwithstanding anything in the plan to the  
15 contrary, if a member shall at any time be convicted of a  
16 Class A felony or of an offense under any local, state, or  
17 federal law that would result in the conviction of a Class A  
18 felony in the State of Alabama, all benefits that would  
19 otherwise be payable to him or her under the plan shall be  
20 forfeited. However, he or she shall be treated under the plan  
21 as if he or she had died on the date immediately preceding the  
22 conviction for purposes of determining the benefit, if any,  
23 payable to his or her eligible family members under 4.04 if he  
24 or she is convicted before his or her annuity starting date or  
25 to his or her beneficiary under 5.02 if he or she is convicted

1 after his or her annuity starting date. For purposes of this  
2 section, a Class A felony shall be a Class A felony as defined  
3 by the Title 13A of the Code of Alabama 1975, as in effect on  
4 the plan's effective date."

5 Section 2. This act shall become effective  
6 immediately upon its passage and approval by the Governor, or  
7 upon its otherwise becoming a law.

  
\_\_\_\_\_  
Speaker of the House of Representatives

  
\_\_\_\_\_  
President and Presiding Officer of the Senate

House of Representatives

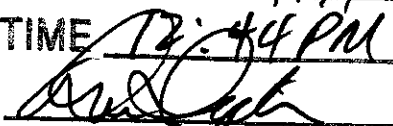
I hereby certify that the within Act originated in  
and was passed by the House 24-APR-2001.

Greg Pappas  
Clerk

Senate

\_\_\_\_\_  
10-MAY-2001  
\_\_\_\_\_

Passed

APPROVED 5/17/01  
TIME 12:44 PM  
  
\_\_\_\_\_  
GOVERNOR



**CITY OF MOBILE, ALABAMA POLICE AND FIREFIGHTERS  
DEFERRED RETIREMENT OPTION PLAN**

Effective as of  
October 1, 1997

1998

60-128

**RESOLUTION**

Sponsored by: Mayor Michael C. Dow

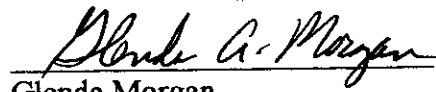
**APPROVING THE ADOPTION OF THE AMENDMENT TO ARTICLE 10 OF THE  
POLICE AND FIREFIGHTERS RETIREMENT PLAN**

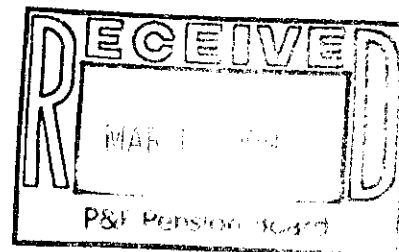
WHEREAS, the Police and Firefighters Pension Board recommended an amendment to Article 10 of the Retirement Plan on February 25, 1998 by Pension Board Resolution 98 003, a copy of which is attached hereto and incorporated by reference; and,

WHEREAS, Article 9 of the Pension Plan requires such amendment to be approved by the City Council;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Mobile hereby approves and adopts the amendment to Article 10 of the Retirement Plan.

Adopted: **MAR 03 1998**

  
Glenda Morgan  
City Clerk



**CITY OF MOBILE, ALABAMA  
POLICE AND FIREFIGHTERS DEFERRED RETIREMENT OPTION PLAN**

**WHEREAS**, Section 7.15 of the City of Mobile, Alabama Police and Firefighters Retirement Plan (the "Retirement Plan") allows the Police and Fire Pension Board of the City of Mobile, Alabama Police and Firefighters Retirement Plan (the "Board") to create a deferred retirement option plan ("DROP") if the Retirement Plan's actuary certifies that the DROP's terms do not create any cost or liability to the City of Mobile, Alabama (the "City"); and

**WHEREAS**, the Retirement Plan's actuary has certified to the City that the creation of a DROP does not create any cost or liability to the City;

**NOW, THEREFORE, BE IT**

**RESOLVED**, that effective October 1, 1997, the Police and Fire Pension Board of the City of Mobile, Alabama Police and Firefighters Retirement Plan adopts the City of Mobile, Alabama Police and Firefighters Deferred Retirement Option Plan (the "DROP") in the form attached hereto; and be it further

**RESOLVED**, that the officials of the City of Mobile, Alabama, be, and they hereby are, authorized to execute such documents and other writings, and to take or do or cause to be taken or done such other actions or things, as may be necessary or desirable to effectuate the purposes and intent of the foregoing resolution.

Adopted: August 27, 1997

Mary H. Stubbs

Secretary

*[Faint, illegible stamp or signature]*

## **CITY OF MOBILE, ALABAMA POLICE AND FIREFIGHTERS DEFERRED RETIREMENT OPTION PLAN**

The City of Mobile, Alabama Police and Firefighters Deferred Retirement Option Plan is created and administered by the Police and Fire Pension Board in accordance with Section 7.15 of the City of Mobile, Alabama Police and Firefighters Retirement Plan. This Deferred Retirement Option Plan shall be effective as of October 1, 1997.

### **ARTICLE I**

#### **DEFINITIONS**

- 1.1 **"Beneficiary"** shall mean any person, persons or entity entitled to receive a benefit under the Retirement Plan in the event of the Participant's death.
- 1.2 **"Board"** shall mean the Board of the City of Mobile, Alabama Police and Firefighters Retirement Plan.
- 1.3 **"City"** shall mean the City of Mobile, Alabama.
- 1.4 **"DROP"** shall mean the City of Mobile, Alabama Police and Firefighters Deferred Retirement Option Plan.



- 1.5** “**DROP Account**” shall mean the account established for each DROP participant under Section 3.1.
- 1.6** “**Eligible Employee**” shall mean any person employed by the City as a “Uniformed Officer” as defined in Section 1.17 of the Retirement Plan.
- 1.7** “**Participant**” shall mean any Eligible Employee who elects to participate in the DROP in accordance with Section 2.2.
- 1.8** “**Plan Year**” shall mean the 12 month period beginning on any October 1 and ending on the immediately following September 30.
- 1.9** “**Retirement Plan**” shall mean the City of Mobile, Alabama Police and Firefighters Retirement Plan as from time to time in effect.

## **ARTICLE II**

### **PARTICIPATION**

#### **2.1 Eligibility to Participate**

In lieu of terminating his employment with the City as an Eligible Employee, any Eligible Employee actively employed by the City who would be eligible to retire and

receive a retirement benefit under Section 4.01 of the Retirement Plan may elect to remain employed by the City as an Eligible Employee, defer receipt of such retirement benefit and participate in the DROP.

## **2.2 Election to Participate**

- (a) An Eligible Employee who meets the requirements of Section 2.1 shall become a Participant in the DROP by:
  - (i) electing to participate in the DROP;
  - (ii) electing a form of payment for his benefits under the Retirement Plan; and
  - (iii) electing a period of participation in the DROP; provided, however, no Eligible Employee shall be a Participant in the DROP for more than 36 months.
- (b) An Eligible Employee's elections under Section 2.2(a) must be made in writing in a time and manner determined by the Board and shall be effective on the first day of the first calendar month which is at least five business days after they are received by the Board. All elections made under Section 2.2(a) must be made before the Eligible Employee terminates his employment with the City as an Eligible Employee and before he begins to receive a benefit under the Retirement Plan. Except as may otherwise be required by the terms of the Retirement Plan or any applicable law, all elections made under Section 2.2(a) shall be irrevocable.

## **2.3 Termination of Participation**

- (a) A Participant in the DROP shall cease to be a Participant in the DROP:
  - (i) by electing in writing, in a time and manner determined by the Board, to cease participating in the DROP prior to the end of his period of participation in the DROP as determined under Section 2.2;
  - (ii) at the end of his period of participation in the DROP as determined under Section 2.2; or
  - (iii) by terminating his employment with the City as an Eligible Employee.

Any election made under clause (i) shall be effective on the first day of the first calendar month which is at least five business days after it is received by the Board.
- (b) Upon a Participant's termination of participation in the DROP, amounts shall cease to be transferred from the Retirement Plan to his DROP Account under Section 3.2, and he shall again contribute to the Retirement Plan if he is still employed by the City as an Eligible Employee and is required to do so under the provisions of the Retirement Plan as then in effect. Any amounts remaining in his DROP Account shall be paid to him in accordance with the provisions of Article IV.
- (c) A Participant's DROP Account shall cease being credited with the investment return determined under Section 3.3 upon his termination of participation in the DROP.

- (d) A Participant who terminates his participation in the DROP under this Section 2.3 shall not be permitted to again become a participant in the DROP.

#### **2.4 Effect of DROP Participation on Retirement Plan**

- (a) Except as provided in Section 4.6 for Participants who become disabled, a Participant's vested accrued benefit under the Retirement Plan shall be determined on the basis of his years of service and final average salary determined as of the date his election to participate in the DROP first becomes effective. The Participant shall not accrue any additional benefits under the Retirement Plan (except for any additional benefits provided under any cost-of-living adjustment in the Retirement Plan and any benefits payable under Section 4.6 for a Participant who becomes disabled) while he is a participant in the DROP.
- (b) A Participant shall not contribute to the Retirement Plan while he is a Participant in the DROP. Upon his termination of participation in the DROP, he shall contribute to the Retirement Plan in accordance with the provisions of Section 2.3(b).
- (c) No amounts shall be paid to a Participant from the Retirement Plan while he is a Participant in the DROP. Unless otherwise specified in the Retirement Plan, if a Participant terminates his participation in the DROP other than by

terminating his employment with the City as an Eligible Employee, no amounts shall be paid to him from the Retirement Plan until he terminates his employment with the City as an Eligible Employee. Unless otherwise specified in the Retirement Plan, amounts transferred from the Retirement Plan to the Participant's DROP Account shall be paid directly to the Participant only in accordance with the provisions of the DROP. Any such payment shall not occur prior to the first day of the month coincident with or next following the later of the date the Participant terminates his participation in the DROP or the date he terminates his employment with the City as an Eligible Employee.

### **ARTICLE III**

#### **FUNDING**

##### **3.1 Establishment of DROP Account**

A DROP Account shall be established for each Participant participating in the DROP. A Participant's DROP Account shall consist of

- (a) amounts transferred to the DROP under Section 3.2 and
- (b) earnings on those amounts determined in accordance with the provisions of Section 3.3.

A Participant's DROP Account will not be segregated from the general assets of the Retirement Plan; however, it will be separately accounted for in the Retirement Plan's records.

### **3.2 Transfers From Retirement System**

- (a) As of the first day of each month of a Participant's period of participation in the DROP, the monthly retirement benefit he would have received under the Retirement Plan had he terminated his employment with the City as an Eligible Employee and elected to receive monthly benefit payments under the Retirement Plan shall be transferred to his DROP Account. A Participant's period of participation in the DROP shall be determined in accordance with the provisions of Sections 2.2 and 2.3, but in no event shall it continue past the date he terminates his employment with the City as an Eligible Employee.
- (b) Transfers to a Participant's DROP Account of his monthly benefit payment from the Retirement Plan shall cease upon the Participant's death. Any benefit payments which may be due under the Retirement Plan on the Participant's death shall be paid from the Retirement Plan in accordance with the form of payment the Participant selected under the Retirement Plan.

### **3.3 Earnings**

As of the end of each month of a Participant's period of participation in the DROP, interest will be credited on all amounts in his DROP Account as of the last day of the immediately preceding month. The annual rate of interest will be the rate determined as of the end of the prior Plan Year equal to the greater of:

- (a) 2% less than the actual rate of return on the assets of the Retirement Plan (as determined by the Retirement Plan's actuary using the standard IRS formula); or
- (b) the lesser of (i) or (ii), as follows:
  - (i) 2% less than the assumed return on the assets of the Retirement Plan (as determined by the Retirement Plan's actuary); or
  - (ii) the actual rate of return on the assets of the Retirement Plan (as determined by the Retirement Plan's actuary using the standard IRS formula).

### **3.4 Statement of Account**

Each Participant shall receive quarterly statements in such form as the Board shall determine showing all amounts credited to his DROP Account and the interest credited on such amounts. The statements shall also contain such other information as the Board shall determine.

## **ARTICLE IV**

### **DISTRIBUTION OF DROP ACCOUNTS ON TERMINATION OF EMPLOYMENT**

#### **4.1 Eligibility for Benefits**

A Participant shall receive the balance in his DROP Account in accordance with the provisions of this Article IV upon his termination of employment with the City as an Eligible Employee. No amounts shall be paid to a Participant from the DROP prior to his termination of employment with the City as an Eligible Employee.

#### **4.2 Forfeitures**

- (a) If a Participant does not terminate his employment with the City as an Eligible Employee at the end of the period of DROP participation he elected under Section 2.2(a), his DROP Account shall be forfeited and he shall receive only his benefit under the Retirement Plan, determined in accordance with the Retirement Plan's provisions. The Participant's benefit from the Retirement Plan shall commence after his employment as an Eligible Employee is terminated and shall be paid in the form elected by the Participant under Section 2.2(a).
- (b) Any amounts forfeited under this Section 4.2 shall be used to reduce future transfers from the Retirement Plan to the DROP under Section 3.2.



#### **4.3 Form of Distribution**

- (a) Unless a Participant elects otherwise, distribution of his DROP Account shall be made in a cash lump sum. A Participant may elect, in such time and manner as the Board shall prescribe, to receive a benefit in any form permitted under Section 5.02 of the Retirement Plan which is of equivalent actuarial value to all or any portion of his DROP Account. To the extent a Participant elects to receive a benefit in one of the forms permitted by Section 5.02 of the Retirement Plan for only a portion of his DROP Account, the remaining portion of his DROP Account shall be paid to him in a cash lump sum. For purposes of the DROP, equivalent actuarial value shall be determined using the same rates, tables and factors used to determine equivalent actuarial value for purposes of the Retirement Plan, or upon such other rates, tables and factors as the Board shall determine upon the advice of the Retirement Plan's actuary.
- (b) Notwithstanding the preceding, if a Participant dies before his benefit under the DROP commences, his DROP Account shall be paid to his Beneficiary in such optional form as his Beneficiary may select under Section 4.3(a).

#### **4.4 Date of Payment of Distribution**

- (a) Except as otherwise provided in this Article IV, distribution of a Participant's DROP Account shall begin as soon as administratively practicable following

the Participant's termination of employment with the City as an Eligible Employee.

- (b) In lieu of a distribution as described in paragraph (a) above, a Participant may, in accordance with such procedures as the Board shall prescribe, elect to have the distribution of his DROP Account made as of the first day of any month coincident with or following his termination of employment with the City as an Eligible Employee; provided, however, payments shall be made before the distribution date elected by the Participant to the extent necessary to comply with the provisions of Section 4.7.
- (c) Any amounts in the DROP Account of a Participant who terminated his participation in the DROP in accordance with Section 2.3(a) shall continue to be invested as part of the DROP's funds but shall not be credited with interest on those funds in accordance with Section 3.3.

#### **4.5 Proof of Death and Right of Beneficiary or Other Person**

The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of a deceased Participant's DROP Account as the Board may deem proper and its determination of the right of that Beneficiary or other person to receive payment shall be conclusive.

#### **4.6 Disability**

If a Participant becomes entitled to a disability benefit under Section 4.02 of the Retirement Plan, he will receive the greater of:

- (a) his benefits under the DROP and the Retirement Plan determined as if he terminated his employment with the City as an Eligible Employee on the date he first became eligible for a disability benefit under the Retirement Plan; and
- (b) his disability benefit under Section 4.02 of the Retirement Plan determined as if he had not elected to participate in the DROP.

#### **4.7 Distribution Limitation**

Notwithstanding any other provision of this Article IV, all distributions from the DROP shall conform to the regulations issued under Section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit provisions of Section 401(a)(9)(G) of the Code. Further, such regulations shall override any DROP provision that is inconsistent with Section 401(a)(9) of the Internal Revenue Code.

#### **4.8 Direct Rollover of Certain Distributions**

Notwithstanding any provision of the DROP to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible

rollover distribution paid directly by the DROP to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions apply to the terms used in this Section:

- (a) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee under the DROP, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more, any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code, and the portion of any distribution that is not includable in gross income.
- (b) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible

retirement plan is an individual retirement account or individual retirement annuity;

- (c) "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse; and
- (d) "Direct rollover" means a payment by the DROP to the eligible retirement plan specified by the distributee. The direct rollover may be accomplished by any reasonable means chosen by the Board.

## **ARTICLE V**

### **ADMINISTRATION OF DROP**

#### **5.1 Board Administers the DROP**

The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility for overseeing the investment of the DROP's assets shall be placed in the Board. The members of the Board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical,

accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as trustee under any trust agreement which may be adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A member of the Board shall not vote on any question relating exclusively to himself.

## **5.2 Individual Accounts, Records and Reports**

The Board shall maintain, or cause to be maintained, records showing the operation and condition of the DROP, including records showing the individual balances in each Participant's DROP Account, and the Board shall keep, or cause to be kept, in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare and distribute, or cause to be prepared and distributed, to Participants and other individuals or to be filed with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Internal Revenue Code and any other applicable laws.

### **5.3 Meetings**

The Board shall hold meetings upon such notice, at such place or places, and at such time or times (but not less frequently than quarterly) as it may from time to time determine.

### **5.4 Action of Majority**

Any act which the DROP authorizes or requires the Board to do may be done by a majority of its members. The action of that majority expressed from time to time by a vote at a meeting shall constitute the action of the Board and shall have the same effect for all purposes as if assented to by all members of the Board at the time in office. All decisions, actions and notifications of the Board shall be evidenced in writing signed by at least two members of the Board.

### **5.5 Compensation and Bonding**

No member of the Board shall receive any compensation from the DROP for his services as such. Except as may otherwise be required by law, no bond or other security need be required of any Board member in that capacity in any jurisdiction.

### **5.6 Establishment of Rules**

Subject to the limitations of the DROP, the Board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The

Board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a Participant in the DROP). The determination of the Board as to the interpretation of the DROP or its determination of any disputed question shall be conclusive and final to the extent permitted by applicable law. The Board shall also oversee the investment of the DROP's assets.

#### **5.7 Limitation of Liability**

- (a) The members of the Board shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
- (b) Neither the Board nor any member of the Board shall be responsible for any reports furnished by any expert retained or employed by the Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.



**ARTICLE VI**  
**GENERAL PROVISIONS**

**6.1 Amendment of DROP**

The Board reserves the right at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of any Participant's DROP Account or which creates any cost or liability to the City.

**6.2 Facility of Payment**

If the Board shall find that a Participant or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the Board may direct that any benefit due him, unless claim shall have been made for the benefit by a duly appointed legal representative, be paid to his spouse, a child, a parent or other blood relative, or to a person with whom he resides. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.

### **6.3 Information**

Each Participant, Beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the Board the information that it shall require to establish his rights and benefits under the DROP.

### **6.4 Prevention of Escheat**

If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefor within three months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel to the DROP, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP shall have no further liability therefor except that, in the event such person or his beneficiary later notifies the Board of his whereabouts and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.

## **6.5 Written Elections, Notification**

- (a) Any elections, notifications or designations made by an Eligible Employee, Participant, former Participant or Beneficiary pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all employees similarly situated. The Board reserves the right to change from time to time the time and manner for making notifications, elections or designations by Eligible Employees, Participants, former Participants and Beneficiaries under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
- (b) Each Participant or former Participant who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to an Eligible Employee, Participant, former Participant or Beneficiary hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is

returned, mailing of checks will be suspended until such time as the Participant, former Participant or Beneficiary notifies the Board of his address.

#### **6.6 Benefits Not Guaranteed**

All benefits payable under the DROP shall be paid only from the assets of the DROP and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

#### **6.7 Administrative Expenses**

The Board may pay the reasonable and necessary expenses of administering the DROP, including, but not limited to, expenses incurred in connection with investing the DROP's assets, from the funds of the DROP to the extent they are not otherwise paid by the City.

#### **6.8 Construction**

- (a) The DROP shall be construed, regulated and administered under the laws of Alabama and the City, except where other applicable law controls.
- (b) The masculine pronoun shall mean the feminine wherever appropriate.

- (c) All references to Sections shall be deemed to refer to the DROP unless otherwise specified.
- (d) The titles and headings of the Articles and Sections in this Plan are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.



These Acts were repealed with the passage  
of the Act of 5/29.97, No. 97-689.

## **PENSION LAW SYNOPSIS / INDEX**

**Act of September 2, 1964, No. 243, 1964 Ala. Acts 326**

**Page No.**

**Section 1. Pension system for "state certified police and firefighters of the City of Mobile."**

Latest version:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	1
Former versions:	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	1
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	1
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	1
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	1

**Section 2. Fund Created.**

Latest version:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	1
Former Versions:	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	1
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	1
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	1
1951 Act	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	1

**Section 3. Amounts paid into Fund: 5% of fines; 8% participant salaries; 16.5% city contribution.**

Latest version:	Act of August 8, 1991, No. 701, 1991 <i>Ala. Acts</i> 1365	1
Former versions:	Act of Mar. 28, 1990, No. 198, 1990 <i>Ala. Acts</i> 229	2
	Act of May 4, 1978, No. 887, 1978 <i>Ala. Acts</i> 1315	2
	Act of Sept. 17, 1971, No. 1484, 1971 <i>Ala. Acts</i> 2540	2
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	3

**Section 4. Comptroller to credit contributions.**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	4
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	4

**Section 5. Money may be donated to Fund.**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	4
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	4

**Section 6. (a) Insurance company contributions--4% of gross premiums.**

**(b) Insurance companies to file annual reports;  
\$1,000 fine for failure to file.**

Latest version:	Act of August 8, 1991, No. 701, 1991 <i>Ala. Acts</i> 1365	4
Former versions:	Act of March 28, 1990, No. 198, 1990 <i>Ala. Acts</i> 229	5
	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	5
	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	5
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	5
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	6
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	6
Note:	Section 24 of State Act correlates with Section 6 of Original Act	6

**Section 7. City may contribute license fees.**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	6
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	7

**Section 8. Board may contract with reputable financial consultant to advise the Board on investments "so as to insure that the Fund is earning the greatest possible return using the prudent man rule for investment of funds while incurring a minimum amount of risk."**

Latest version:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	7
Former versions:	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	7
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	7
	Act of Sept. 17, 1971, No. 1484, 1971 <i>Ala. Acts</i> 2540	7
	Act of Aug. 16, 1965, No. 400, 1965 <i>Ala. Acts</i> 576	7
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	8
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	8

**Section 9. (a) Board is administrative authority for Fund.  
Composition of membership.**

**(b) Time for meeting; quorum.**

**(c) Board authorized to adopt rules and regulations.**

**(d) Record keeping.**

**(e) City to appoint and fund Secretary to Board.**

**(f) Bonding requirements.**



**(g) All applications for pensions shall be heard and determined by the Board.**

**(h) Each member has 1 vote except matters concerning service-connected disability.**

Latest version:	Act of Aug. 8, 1991, No. 701, 1991 <i>Ala. Acts</i> 1365	8
Former versions:	Act of Mar. 28, 1990, No. 198, 1990 <i>Ala. Acts</i> 229	9
	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	10
	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	11
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	12
	Act of Sept. 17, 1971, No. 1484, 1971 <i>Ala. Acts</i> 2540	13
	Act of May 10, 1967, No. 180, 1967 <i>Ala. Acts</i> 231	13
	Act of Sept. 12, 1966, No. 359, 1966 <i>Ala. Acts</i> 499	14
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	15
'51 Act: Section 10	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	15
Note:	Section 10 of State Act correlates to Section 9 of Original Act	

#### **Section 10. Fund not subject to garnishment or attachment.**

Latest version:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	15
Former versions:	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	15
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	15
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	15
'51 Act: Section 11	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	16
Note:	Section 11 of State Act correlates to Section 10 of Original Act	

#### **Section 11. Only state certified police officers or firefighters and those in training are eligible to become members of pension system and "membership shall be mandatory" for those hired after the Act (April 1986). Those in Fund have 60 days to withdraw from Fund and receive a refund of contributions.**

Latest version:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	16
Former versions:	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	16
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	16
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	16
'51 Act: Section 9	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	16
Note:	Section 9 of State Act correlates to Section 11 of Original Act	

#### **Section 12. Temporary disability from service by reason of such service. 50% of salary--one year only.**

Latest version:	Act of May 4, 1978, No. 887, 1978 <i>Ala. Acts</i> 1315	16
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	17
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	17

**Section 13. Permanent disability--60% of salary.**

Latest version:	Act of July 31, 1995, No. 571, 1995 <i>Ala. Acts</i>	17
Former versions:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	18
	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	19
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	19
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	19
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	20

**Section 14. (a) Regular retirement, 20 years of service, the last 10 consecutive, 50 years of age.**

**(b) Regular retirement, 20 years of service for persons hired subsequent to passage of this act, 55 years of age.**

**(c) Members who continue in service beyond 30 years at the time of the passage of the act.**

Latest version:	Act of Aug. 8, 1991, No. 701, 1991 <i>Ala. Acts</i> 1365	20
Former versions:	Act of Mar. 28, 1990, No. 198, 1990 <i>Ala. Acts</i> 229	21
	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	21
	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	22
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	22
	Act of May 4, 1978, No. 887, 1978 <i>Ala. Acts</i> 1315*	
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	22
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	22

**Section 15. Retirement after 25 years of service. (Repealed).**

Repealed:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	22*
	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	22
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	22
Former versions:	Act of May 4, 1978, No. 887, 1978 <i>Ala. Acts</i> 1315*	
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	23
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	23

\* Not included among the amendments, as stated in preamble to Act.

**Section 16. (a) Surviving spouse allowance.**

**(b) Death of persons not eligible for retirement.**

**(c) Death of person where no survivor allowance payable.**

**(d) Refund upon termination of employment. Purchase or prior service.**

**(e) Death of member who retired between Jan. 1963 and Oct. 1964.**

Latest version:	Act of August 8, 1991, No. 701, 1991 <i>Ala. Acts</i> 1365	23
Former versions:	Act of Mar. 28, 1990, No. 198, 1990 <i>Ala. Acts</i> 229	24
	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	25
	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	25
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	26
	Act of May 6, 1990, No. 339, 1980 <i>Ala. Acts</i> 458	26
Section 27	Act of May 10, 1967, No. 180, 1967 <i>Ala. Acts</i> 231	27
	Act of Sept. 12, 1966, No. 359, 1966 <i>Ala. Acts</i> 499	27
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	27
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	28

**Section 17. Board may require members to be examined by physicians in "all matters involving the disability or sickness of members of the police or fire department."**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	28
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	28
Note:	Section 21 of State Act correlates to Section 17 of Original Act	28

**Section 18. Members receiving disability benefits may be required to submit annual proof of continued eligibility.**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	29
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	29

**Section 19. If Fund inadequate to pay pensions, the Board can prorate. No person can sue for payment.**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	29
'51 Act: Section 20	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	29
Note:	Section 20 of State Act correlates to Section 19 of Original Act	29

**Section 20. Retirement book to be kept by Board Secretary.**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	29
'51 Act: Section 22	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	30
Note:	Section 22 of State Act correlates to Section 20 of Original Act	

**Section 21. City Attorney to advise Board, and defend all actions.**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	30
'51 Act: Section 23	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	30
Note:	Section 23 of State Act correlates to Section 21 of Original Act	

**Section 22. Opting out of system.**

<b>Repealed:</b>	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	30
	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	30
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	30
Former version:	Act of Mar. 29, 1985, No. 230, 1985 <i>Ala. Acts</i> 129	30
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	30
'51 Act: Section 26	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	30
<b>Note:</b>	Section 26 of State Act correlates to Section 22 of Original Act	

**Section 23. Final decisions by the Board may be appealed by any contributing member to the Circuit Court who shall hear appeal without a jury.**

Latest version:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	31
Former versions:	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	31
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	31
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	31
'51 Act: Section 27	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	31
<b>Note:</b>	Section 27 of State Act correlates to Section 23 of Original Act	

**Section 24. Former law and powers carried forward to new Board; rights and duties retained.**

Latest version:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	32
Former versions:	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	32
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	32
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	32
'51 Act: Section 25	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	33
<b>Note:</b>	Section 25 of State Act correlates to Section 24 of Original Act	

**Section 25. Repealer of conflicting laws.**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	33
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**Section 26. Severability.**

Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	33
'51 Act: Section 28	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	33
<b>Note:</b>	Section 28 of State Act correlates to Section 26 of Original Act	

**Section 27. Act shall not have retroactive application.**

Latest version:	Act of May 10, 1967, No. 180, 1967 <i>Ala. Acts</i> 231	33
	(Setting out special rules for Section 16.)	
Original Act:	Act of Sept. 2, 1964, No. 243, 1964 <i>Ala. Acts</i> 326	33

**Section 28. Options on retirement for surviving spouse for member retiring after date of act. (1986)**

Latest version:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	33
Former versions:	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	34
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	34
<b>Adopted:</b>	Act of May 4, 1978, No. 887, 1978 <i>Ala. Acts</i> 1315	34

**Section 29. Board may grant cost-of-living allowances.**

Latest version:	Act of April 30, 1986, No. 475, 1986 <i>Ala. Acts</i> 900	34
Former versions:	Act of Sept. 27, 1985, No. 938, 1985 <i>Ala. Acts</i> 241	35
	Act of April 15, 1985, No. 312, 1985 <i>Ala. Acts</i> 211	35
	Act of Mar. 29, 1985, No. 231, 1985 <i>Ala. Acts</i> 130	35
<b>Adopted:</b>	Act of May 4, 1978, No. 887, 1978 <i>Ala. Acts</i> 1315	35
1951 Act:	Act of Sept. 11, 1951, No. 774, 1951 <i>Ala. Acts</i> 1365	35

## **Policemen's & Fire Fighters' Pension & Relief Fund Act**

**Section 1.** There is hereby created a Pension and Relief System for the state certified police and fire fighters of the City of Mobile, which shall be supported, maintained and managed as hereinafter provided. (Act No. 86-475)

Editor's note -- Previous versions of Section 1 are printed below:

**Section 1.** There is hereby created a Pension and Relief System for the state certified police and fire fighters of the City of Mobile, which shall be supported, maintained and managed as hereinafter provided. (Act No. 85-938)

**Section 1.** There is hereby created a Pension and Relief System for the state certified police and fire fighters of the City of Mobile, which shall be supported, maintained and managed as hereinafter provided. (Act No. 85-312)

**Section 1.** There is hereby created a Pension and Relief system for the regularly organized and paid members of the police and fire departments of the City of Mobile, which shall be supported, maintained and managed as hereinafter provided. (Act No. 64-243)

**Section 1.** That in all cities in the State of Alabama having a population of not less than one hundred and ten thousand and not more than two hundred and fifty thousand according to the preliminary count of the 1950 Federal Census or any subsequent regular decennial Federal Census, there is hereby provided for or created, in connection with the regularly organized and paid Police and Fire Departments of the said cities, special funds to be known as "Policemen's and Firemen's Pension and Relief Funds" which shall exist and be maintained for the benefit of the persons hereinafter named, and shall be derived and raised in the manner hereinafter provided. (Act No. 51-774)

**Section 2.** There shall be a special fund designated the Policemen's and Fire Fighters' Pension and Relief Fund which shall be set apart from all other city funds to be held and maintained as hereinafter provided. (Act No. 86-475)

Editor's note -- Previous versions of Section 2 are printed below:

**Section 2.** There shall be a special fund designated the Policemen's and Fire Fighters' Pension and Relief Fund which shall be set apart from all other city funds to be held and maintained as hereinafter provided. (Act No. 85-938)

**Section 2.** There shall be a special fund designated the Policemen's and Fire Fighters' Pension and Relief Fund which shall be set apart from all other city funds to be held and maintained as hereinafter provided. (Act No. 85-312)

**Section 2.** There shall be a special fund in the treasury of the City of Mobile to be designated the Policemen's and Fire Fighter's Pension and Relief Fund which shall be set apart by the comptroller or other person performing the duties of Treasurer of the City of Mobile, and shall be held and maintained as other city funds are held and maintained except as is hereinafter provided. (Act No. 64-243)

**Section 2.** Said funds shall be set apart by the Comptrollers or other persons performing the duties of treasurers of the respective cities, into a separate fund, which shall be held and maintained by the respective cities, as is hereinafter provided. (Act No. 51-774)

**Section 3.** There shall be paid into such fund, out of the treasury of the City of Mobile, an amount equal to five per cent (5%) of the amount of all fines and moneys, except costs of court, paid as a result of prosecutions for violations of ordinances or laws of the City of Mobile, which sums shall be determined and credited to the Fund on a monthly basis. Eight per cent (8%) of the salary of every participant of the police and fire departments pension fund shall be deducted by the proper authority from the salaries of said participants of such Fund and shall be transferred to the Fund on a monthly basis with records kept showing the amount credited to each said participant, the increase in deductions to begin immediately following the enactment of this act; sixteen and one-half percent (16-1/2%) of the salary of the members of such departments shall be contributed by the City of Mobile and credited to such Fund monthly, the increase in contributions to begin immediately following the enactment

of this act. The contributions by the participants and by the City of Mobile may be decreased pro rata at such rate as is determined by the actuary to be permissible once the unfunded liability of the Fund has been erased, and any such decreases in contributions shall begin on the first day of the fiscal year next following the actuary's report. The actuary's report for the preceding year shall be due not later than thirty (30) days before the end of the next succeeding fiscal year. That portion of the assessment that may be fixed by the governing body of the City and added as costs of court in connection with prosecutions for violations of the ordinances of the City of Mobile, shall be collected and credited monthly to the Fund; and the Fund shall be credited with any appropriations made by the City when at any time the Fund shall be insufficient to pay the benefits and defray the expenses as provided in this act. The City Council or other governing body of the City of Mobile may appropriate from any funds not otherwise appropriated an amount sufficient to cover such deficiency and may in subsequent budgets provide an amount to cover any anticipated deficits revealed by the actuary in the Fund." (Act. No. 91-701)

Editor's note -- Previous versions of Section 3 are printed below:

**Section 3.** There shall be paid into such fund, out of the treasury of the City of Mobile, an amount equal to five per cent (5%) of the amount of all fines and moneys, except costs of court, paid as a result of prosecutions for violations of ordinances or laws of the City of Mobile, which sums shall be determined and credited to the Fund on a monthly basis. Eight per cent (8%) of the salary of every participant of the police and fire departments pension fund shall be deducted by the proper authority from the salaries of said participants of such Fund and shall be transferred to the Fund on a monthly basis with records kept showing the amount credited to each said participant, the increase in deductions to begin immediately following the enactment of this act; sixteen and one-half percent (16-1/2%) of the salary of the members of such departments shall be contributed by the City of Mobile and credited to such Fund monthly, the increase in contributions to begin immediately following the enactment of this act. The contributions by the participants and by the City of Mobile may be decreased pro rata at such rate as is determined by the actuary to be permissible once the unfunded liability of the Fund has been erased, and any such decreases in contributions shall begin on the first day of the fiscal year next following the actuary's report. The actuary's report for the preceding year shall be due not later than thirty (30) days before the end of the next succeeding fiscal year. That portion of the assessment that may be fixed by the governing body of the City and added as costs of court in connection with prosecutions for violations of the ordinances of the City of Mobile, shall be collected and credited monthly to the Fund; and the Fund shall be credited with any appropriations made by the City when at any time the Fund shall be insufficient to pay the benefits and defray the expenses as provided in this act. The City Council or other governing body of the City of Mobile may appropriate from any funds not otherwise appropriated an amount sufficient to cover such deficiency and may in subsequent budgets provide an amount to cover any anticipated deficits revealed by the actuary in the Fund." (Act No. 90-198)

**Section 3.** There shall be paid into such fund, out of the treasury of the City of Mobile, an amount equal to five per cent of the amount of all fines and moneys, except costs of court, paid as a result of prosecutions for violations of ordinances or laws of the City of Mobile, which sums shall be determined and credited to the fund on a monthly basis; six per cent of the monthly salary of every member of the police and fire departments shall be deducted by the proper authority from the monthly salaries of said members of such departments and shall be transferred to the Fund monthly with record kept showing amount credited to each said member; ten per cent of the monthly salary of the members of such departments which shall be contributed by the City of Mobile and credited to such Fund monthly, that a portion of the assessment that may be fixed by the governing body of the City and added as cost of court in connection with prosecutions for violations of the ordinances of the City of Mobile, shall be collected and credited monthly to the Fund; and the Fund shall be credited with any appropriations made by the City when at any time the Fund shall be insufficient to pay the benefits and defray the expenses as provided in this Act. The Board of Commissioners or other governing body of the City of Mobile may appropriate from any funds not otherwise appropriated an amount sufficient to cover such deficiency and may in subsequent budgets provide an amount to cover any anticipated deficits in the Fund." (Act No. 78-887)

**Section 3.** There shall be paid into such fund, out of the treasury of the City of Mobile, an amount equal to five per cent of the amount of all fines and moneys, except costs of court, paid as a result of

prosecutions for violations of ordinances or laws of the City of Mobile, which sums shall be determined and credited to the fund on a monthly basis; four per cent of the monthly salary of every member of the police and fire departments shall be deducted by the proper authority from the monthly salaries of said members of such departments and shall be transferred to the Fund monthly with record kept showing amount credited to each said member; four per cent of the monthly salary of the members of such departments which shall be contributed by the City of Mobile and credited to such Fund monthly; that portion of the assessment that may be fixed by the governing body of the City and added as cost of court in connection with prosecutions for violations of the ordinances of the City of Mobile, provided that the assessment of such costs for this purpose shall not exceed \$3.00, shall be collected and credited monthly to the Fund; and the Fund shall be credited with any appropriations made by the City when at any time the Fund shall be insufficient to pay the benefits and defray the expenses as provided in this Act. The Board of Commissioners or other governing body of the City of Mobile may appropriate from any funds not otherwise appropriated an amount sufficient to cover such deficiency and may in subsequent budgets provide an amount to cover any anticipated deficits in the Fund. Provided, however, the minimum contribution by the City of Mobile in provision for such anticipated deficiency shall be an amount equal to not less than two per cent of the aggregate salaries of members of the police and fire departments, and credited to such Fund monthly for each fiscal year of the City of Mobile until such deficiency is no longer anticipated. (Act No. 71-1484)

**Section 3.** There shall be paid into such fund, out of the treasury of the City of Mobile, an amount equal to five per cent of the amount of all fines and moneys, except costs of court, paid as a result of prosecutions for violations of ordinances or laws of the City of Mobile, which sums shall be determined and credited to the fund on a monthly basis; two per cent of the monthly salary of every member of the police and fire departments shall be deducted by the proper authority from the monthly salaries of said members of such departments and shall be transferred to the Fund monthly with record kept showing amount credited to each said member; two per cent of the monthly salary of the members of such departments which shall be contributed by the City of Mobile and credited to such Fund monthly; that portion of the assessment that may be fixed by the governing body of the City and added as cost of court in connection with prosecutions for violations of the ordinances of the City of Mobile, provided that the assessment of such costs for this purpose shall not exceed \$3, shall be collected and credited monthly to the Fund; and the Fund shall be credited with any appropriations made by the City when at any time the Fund shall be insufficient to pay the benefits and defray the expenses as provided in this Act. The Board of Commissioners or other governing body of the City of Mobile may appropriate from any funds not otherwise appropriated an amount sufficient to cover such deficiency and may in subsequent budgets provide an amount to cover any anticipated deficits in the Fund." (Act No. 64-243)

**Section 3.** This Act shall and does create a pension and relief system which applies to the members of the Police and Fire Departments in all cities in the State of Alabama having a population of not less than one hundred and ten thousand and not more than two hundred and fifty thousand according to the preliminary count of the 1950 Federal Census or any subsequent regular decennial Federal Census, as is herein set forth; and said policemen's and firemen's pension and relief fund, as provided for and created herein, shall, in addition to the means hereinafter provided, which shall not be the exclusive means, be received, obtained and created as follows: First: By setting apart and paying into such funds out of the treasury of the respective cities, same to be held by the governing body of said city, as the other city funds are held and controlled, except as hereinafter provided, an amount equal to five percent, each month, of the aggregate amount of all fines and moneys, except cost of court, paid as the result of prosecutions for the violations of ordinances or laws of the respective cities, meaning thereby, that five per cent of the gross amount so received shall monthly be set apart in the said funds. Second: By payment into such funds by the proper authority of the respective cities, monthly, an amount equal to one per centum of the monthly salary of every member of the police and fire departments in the respective cities, which one percentum shall be held and deducted by the proper authority from the monthly salaries of said members of such departments. Third: By that portion of the assessment that may be added as cost of court in connection with prosecutions for violations of the ordinances of the respective cities, as may be provided by the governing authorities of said respective cities, provided that the assessment of cost for this purpose shall not exceed three dollars. Fourth: Shall such fund at any time be insufficient to pay and defray the expenses, as provided in this Act, the Board of Commissioners, or other governing body of the respective cities, may appropriate from any funds, not otherwise appropriated, a sufficient amount to make up such deficit, and may in its budget, subsequent thereto, provide for a sufficient amount to make up such anticipated deficit in said funds. (Act No. 51-774)



**Section 4.** The percentages paid into the City treasury as a result of convictions and prosecutions, court costs, and the sums representing matching payments by the City as provided by Section 3 of this Act are hereby charged with and appropriated to the Policemen's and Fire Fighter's Pension and Relief Fund and shall be so credited by the comptroller or another person performing the duties of Treasurer of the City of Mobile. (Act No. 64-243)

Editor's note -- Previous version of Section 4 are printed below:

**Section 4.** An amount equal to five percentum of the gross receipts from all fines and moneys, except court costs, paid into the city treasury as a result of convictions or prosecutions for violations of the ordinances of the respective cities, shall be paid into such separate fund, and each and every such payment of fines and moneys is hereby charged with this amount and appropriation of five per cent, -- same to commence as hereinbefore provided. In addition, there shall, by the comptroller or other persons performing the duties of Treasurer of the respective cities, be deducted one per centum from the monthly salary of each member of such police and fire departments, which shall also be paid into such separate fund. (Act No. 51-774)

**Section 5.** (a) Moneys may be given or donated to said Fund by any person, firm or association or corporation for the uses and purposes for which said Fund is created, and said Board of Pensions may take by gift, grant, devise or bequest, any money, personal property, real estate or any interest therein or any right of property for the benefit of such Fund; and such gift, grant, devise or bequest may be absolute or in fee-simple or upon condition that only the rents, income and profits arising therefrom shall be applied to the purposes for which said Fund is created.

(b) Trustees may be appointed by the Board of pensions for the purpose of receiving, holding or managing any property acquired under subsection (a) hereof, if not otherwise named by the instrument of gift or legacy, and for performing duties in connection with funds or properties under control of the board, and such Trustees shall serve subject to such restrictions and conditions as may be prescribed by the Board; provided, however, no salary shall be paid from the Pension and Relief Fund herein created to any person acting as such Trustee. (Act No. 64-243)

Editor's note -- Previous version of Section 5 are printed below:

**Section 5.** Moneys may be given or donated to said fund by any person, firm or association or corporation for the uses and purposes for which said fund is created, and said Board of Commissioners or other governing body of the respective cities may take by gift, grant, devise or bequest, any money, personal property, real estate or any interest therein or any right of property for the benefit of such fund; and such gift, grant, devise or bequest may be absolute or in fee-simple or upon condition that only the rents, income and profits arising therefrom shall be applied to the purposes for which said fund is created. (Act No. 51-774)

**"Section 6.** (a) Each insurance company writing fire insurance on property within the city limits of the city of Mobile and its police jurisdiction on or before the first day of March of each year, shall pay to the city of Mobile, a sum equal to four percent (4%) of its gross amount of premiums, including all renewal premiums, less return premiums, collected by such companies on policies in effect during the preceding year in such municipality and its police jurisdiction. One-half (1/2) of said sum shall be credited to said pension fund.

"(b) Each such insurance company shall on or before the due date of such payment file with the Finance Director of the city of Mobile, a statement or report in

writing, showing the gross amount of premiums, including all renewal premiums, less return premiums, received on such policies during the preceding year; which statement or report shall be sworn to by the agent of the insurance company in the city, or some other person having knowledge of the facts; and any such insurance company failing to make and file such report and statement as aforesaid, shall forfeit to the City of Mobile for use of the Policemen and Fire Fighters Pension and Relief Fund, the sum of one thousand dollars (\$1,000.00), to be recovered against such insurance company violating the provisions hereof, or its agents, by suit brought in the name of the city, and all such forfeitures and penalties shall be and become a part of the Policemen and Fire Fighters Pension and Relief Fund. (Act No. 91-701)

Editor's note - Previous versions of Section 6 are printed below, along with Section 24 of Act No. 51-774, which correlates with Section 6 of the City of Mobile Act:

**"Section 6.** (a) Each insurance company writing fire insurance on property within the city limits of the city of Mobile and its police jurisdiction on or before the first day of March of each year, shall pay to the city of Mobile a sum equal to four percent (4%) of its gross amount of premiums, including all renewal premiums, less return premiums, collected by such companies on policies in effect during the preceding year in such municipality and its police jurisdiction. One-half (1/2) of said sum shall be credited to said pension fund.

"(b) Each such insurance company shall on or before the due date of such payment file with the Finance director of the city of Mobile, a statement or report in writing, showing the gross amount of premiums, including all renewal premiums, less returned premiums, received on such policies during the preceding year; which statement or report shall be sworn to by the agent of the insurance company in the city, or some other person having knowledge of the facts; and any such insurance company failing to make and file such report and statement as aforesaid, shall forfeit to the City of Mobile for use of the Policemen and Fire Fighters Pension and Relief Fund, the sum of one thousand dollars (\$1,000.00) to be recovered against such insurance company violating the provisions hereof, or its agents, by suit brought in the name of the city, and all such forfeitures and penalties shall be and become a part of the Policemen and Fire Fighters Pension and Relief Fund. (Act 90-198)

**"Section 6.** (a) Each insurance company writing fire insurance on property within the city limits of the City of Mobile, on or before the first day of March of each year, shall pay to the City of Mobile a sum equal to four percent of its net premiums. One-half of said sum shall be credited to said pension fund.

"(b) Each such insurance company shall on or before the due date of such payment file with the board of commissioners or like governing body of the city a statement or report in writing, showing the gross amount of premiums less returned premiums, received on such policies during the preceding year; which statement or report shall be sworn to by the agent of such insurance company in the city, or some other person having knowledge of the facts; and any such insurance company failing to make and file such report and statement as aforesaid, shall forfeit to the City of Mobile for use of the Policemen's and Fire Fighters' Pension and Relief Fund, the sum of one thousand dollars, to be recovered against such insurance company violating the provisions hereof, or its agents, by suit brought in the name of the city, and all such forfeitures and penalties shall be and become a part of the Policemen's and Fire Fighters' Pension and Relief Fund. (Act No. 86-475)

**"Section 6.** (a) Each insurance company writing fire insurance on property within the city limits of the City of Mobile, on or before the first day of March of each year, shall pay to the City of Mobile a sum equal to four percent of its net premiums. One-half of said sum shall be credited to said pension fund.

"(b) Each such insurance company shall on or before the due date of such payment file with the board of commissioners or like governing body of the city a statement or report in writing, showing the gross amount of premiums less returned premiums, received on such policies during the preceding year; which statement or report shall be sworn to by the agent of such insurance company in the city, or some other person having knowledge of the facts; and any such insurance company failing to make and file such report and statement as aforesaid, shall forfeit to the City of Mobile for use of the Policemen's and Fire Fighters' Pension and Relief Fund, the sum of one thousand dollars, to be recovered against such insurance company violating the provisions hereof, or its agents, by suit brought in the name of the city, and all such forfeitures and penalties shall be and become a part of the Policemen's and Fire Fighters' Pension and Relief Fund. (Act No. 85-938)

**"Section 6.** (a) Each insurance company writing fire insurance on property within the city limits of the City of Mobile, on or before the first day of March of each year, shall pay to the City of Mobile a sum

equal to four percent of the gross premiums, less return premiums, collected by such companies on policies issued during the preceding year in such municipality. One-half of said sum shall be credited to said pension fund.

"(b) Each such insurance company shall on or before the due date of such payment file with the board of commissioners or like governing body of the city a statement or report in writing, showing the gross amount of premiums less returned premiums, received on such policies during the preceding year; which statement or report shall be sworn to by the agent of such insurance company in the city, or some other person having knowledge of the facts; and any such insurance company failing to make and file such report and statement as aforesaid, shall forfeit to the City of Mobile for use of the Policemen's and Fire Fighters' Pension and Relief Fund, the sum of one thousand dollars, to be recovered against such insurance company violating the provisions hereof, or its agents, by suit brought in the name of the city, and all such forfeitures and penalties shall be and become a part of the Policemen's and Fire Fighters' Pension and Relief Fund. (Act No. 85-312)

**"Section 6.** (a) Each insurance company writing fire insurance on property in the City of Mobile, shall, on or before the first day of March of each year, pay to the City of Mobile for credit to said Pension and Relief Fund, a sum equal to one-half of one per cent of the gross premiums, less returned premiums, received on policies insuring property situated within the corporate limits of such municipality during the preceding year; provided, however, that when said insurance companies pay to the City a sum equal to four per cent of its net premiums, such companies shall not be required to pay the amount herein provided to said Pension and Relief Fund.

"(b) Each such insurance company shall on or before the due date of such payment file with the Board of Commissioners or like governing body of the City a statement or report in writing, showing the gross amount of premiums less returned premiums, received on such policies during the preceding year; which statement or report shall be sworn to by the agent of such insurance company in the City, or some other person having knowledge of the facts; and any such insurance company failing to make and file such report and statement as aforesaid, shall forfeit to the City of Mobile for use of the Policemen's and Fire Fighters' Pension and Relief Fund, the sum of one thousand dollars, to be recovered against such insurance company violating the provisions hereof, or its agents, by suit brought in the name of the City, and all such forfeitures and penalties shall be and become a part of the Policemen's and Fire Fighters' Pension and Relief Fund. (Act No. 64-243)

**Section 6.** Each fire insurance company doing business in such city or cities shall, on or before the first day of February of each year, pay into said pension and relief fund, a sum equal to one half of one per centum of the gross premiums, less returned premiums, received by such fire insurance companies, or their agents doing business in the respective cities for and on account of business done by it in such city during the preceding year, provided, however, that when said insurance companies pay to the municipalities, herein referred to, as license for doing business in said cities, a sum equal to four per cent of its net premiums, the said companies shall not be required to pay the amount herein provided to said pension and relief fund. (Act No. 51-774)

**Section 24.** That each Fire Insurance Company doing business in the cities governed by this act shall file with the respective boards of commissioners or other governing bodies of the respective cities, on or before the First day of February of each year, a statement or report in writing, showing the gross amount of premiums less returned premiums, received by such fire insurance company for and on account of business done by it in such city during the preceding year; which such statement or report shall be sworn to by the agent of such fire insurance company in such city, or some other person having knowledge of the facts; and any such fire insurance company failing to make and file such report and statement as aforesaid, shall forfeit to the said Policemen's and Firemen's Pension and Relief Fund, the sum of one thousand dollars, to be recovered against such Fire Insurance Company so violating the provisions hereof, or its agents, by suit brought in the name of the city wherein default is made, and all such forfeitures and penalties shall be and become a part of said Policemen's and Firemen's Pension and Relief Fund. (Act No. 51-774)

**Section 7.** The Board of City Commissioners, or other like governing body of the City, is hereby authorized and empowered to set apart and pay into the Pension and Relief Fund not exceeding one per cent of all revenues collected and received by the City from licenses, provided, however, that this section shall not be compulsory. (Act No. 64-243)

Editor's note -- Previous version of Section 7 are printed below:

**Section 7:** The Board of City Commissioners, or other governing body of the respective cities, are hereby authorized and empowered to set apart for, and pay into, the said firemen's pension and relief fund not exceeding one percentum of all revenues collected and received by such city from licenses issued by such city, provided, however, that this section shall not be compulsory. (Act No. 51-774)

**Section 8.** The Board of Pensions hereinafter created is hereby authorized to enter into a contract with a reputable financial consultant who shall advise the board as to how the assets of the pension fund shall be invested, from time to time, so as to insure that such pension fund is earning the greatest possible return using the prudent man rule for investment of funds while incurring a minimal amount of risk. All funds, securities and accounts of the pension system shall be maintained in special accounts kept separate and apart from any other funds or securities belonging to the City of Mobile. (Act No. 86-475)

Editor's note -- Previous versions of Section 8 are printed below:

**Section 8.** The Board of Pensions hereinafter created is hereby authorized to enter into a contract with a reputable financial consultant who shall advise the board as to how the assets of the pension fund shall be invested, from time to time, so as to insure that such pension fund is earning the greatest possible return using the prudent man rule for investment of funds while incurring a minimal amount of risk. All funds, securities and accounts of the pension system shall be maintained in special accounts kept separate and apart from any other funds or securities belonging to the City of Mobile. (Act No. 85-938)

**Section 8.** The Board of Pensions hereinafter created is hereby authorized to enter into a contract with a reputable financial consultant who shall advise the board as to how the assets of the pension fund shall be invested, from time to time, so as to insure that such pension fund is earning the greatest possible return using the prudent man rule for investment of funds while incurring a minimal amount of risk. All funds, securities and accounts of the pension system shall be maintained in special accounts kept separate and apart from any other funds or securities belonging to the City of Mobile. (Act No. 85-312)

**Section 8.** The Board of Pensions hereinafter created is authorized to place in any Bank or duly chartered Savings and Loan Association in which accounts are guaranteed by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the same are established under the Laws of the United States, such portion of the Pension and Relief Fund as is not necessarily in use; so that such Pension and Relief fund may draw interest or earnings upon any part not used, except however, there shall not be placed in any account in any such Bank or Savings and Loan Association monies in excess of the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation coverage. Said Board of pensions is also authorized to invest such part of said Pension and Relief fund as is not necessarily in use, in United States Bonds, State of Alabama Bonds, and Bonds of the municipalities and counties of the State of Alabama, and to invest and reinvest said Pension and Relief Fund and the proceeds of sale or disposal of any portion thereof in such other bonds, or in mortgages, stocks (common and preferred), securities, any discretionary or other type common trust funds administered by any bank in the State of Alabama, or in any real property or other property or interest in property of any kind, including any pension investment accounts maintained by life insurance companies authorized to do business in the State of Alabama, as the Board of Pensions in its discretion may deem advisable without regard to any constitutional, statutory, or other restrictions or limitations on or rules or regulations with respect to investment of trust funds under any other law of the State of Alabama, all of which restrictions, limitations, rules and regulations are hereby waived and may be entirely disregarded by the Board of Pensions; and, all securities, accounts, funds and monies so created shall be maintained and kept separate and apart in special accounts set aside from other monies and securities of the City of Mobile, so that the same shall at all times be subject to instant use. (Act No. 71-1484)

**"Section 8.** The Board of Pensions hereinafter created is authorized to place in any Bank or duly chartered Savings and Loan Association in which accounts are guaranteed by the Federal Deposit Insurance Corporation or the Federal Savings & Loan Insurance Corporation, as the same are established under the Laws of the United States, such portion of the Pension and Relief fund as is not necessarily in use; so that such Pension and Relief fund may draw interest or earnings upon any part not used, except however, there shall not be placed in any account in any such Bank or Savings & Loan Association monies in excess of the Federal Deposit Insurance Corporation or Federal Savings & Loan Insurance Corporation coverage. Said Board of Pensions is also authorized to invest such part of said Pension and

Relief fund as is not necessarily in use, in United States Bonds, State of Alabama Bonds, and Bonds of the municipalities and counties of the State of Alabama, and, all securities, accounts, funds and monies so created shall be maintained and kept separate and apart in special accounts set aside from other monies and securities of the City of Mobile, so that the same shall at all times be subject to instant use." (Act No. 65-400)

**"Section 8.** The Board of Pensions hereinafter created is authorized to place in banks at interest and to invest such part of the fund as is not necessarily in use, but such investments shall be limited to United States bonds, state, municipal and county bonds of Alabama. All such securities, funds and moneys shall be maintained and kept separate and apart in special accounts set aside from other moneys and securities of the City, so that they shall at all times be subject to instant use. (Act No. 64-243)

**Section 8:** That as to such fund so created, after same has come into being and is established, the governing bodies of the respective cities shall direct its placement with banks, so that same may draw interest upon any part not used. Said governing body is authorized to invest such part of same as is not necessarily in use, in United States Bonds, State of Alabama bonds, Municipal bonds, and County Bonds, only, and all securities, funds and moneys so created shall be maintained and kept separate and apart in such special fund set aside from other moneys and securities of the respective cities, so that the same shall, at all times be subject to instant use. (Act No. 51-774)

**"Section 9.** (a) The Policemen and Fire Fighters Pension and Relief Fund Board, hereinafter referred to as "the board," is hereby created as the administrative authority for the management of the pension system. The board shall be comprised of nine members; three members to be elected from the police department, three members to be elected from the fire department, two members to be appointed from other areas by the City Council of Mobile or like governing body of the city of Mobile, and one member to be the finance director for the City of Mobile, or said finance director's designated representative. The board seats held by the members of the police and fire departments shall be designated as Seats No. 1, No. 2 and No. 3, from each department and such seats shall be filled in a special election held for such purpose no later than sixty (60) days from the effective date of this act. The city clerk shall administer such election and shall circulate ballots to active members of the fire and police departments at the same time as such employees are distributed their salary warrants and in accordance with such other election rules as the city clerk deems necessary to administer such election in a fair and honest manner. The persons elected to Place No. 1 shall serve initial terms of one (1) year, persons elected to Place No. 2 shall serve initial terms of two (2) years, and the persons elected to Place No. 3 shall serve initial terms of (3) three years; thereafter, all elected members of such board shall serve for terms of three (3) years. Subsequent elections shall be held some time between six weeks and two weeks prior to the expiration date for the term of any seat on the board. The members appointed by the City of Mobile shall be reputable persons who are residents of the City of Mobile, over the age of twenty-one (21) years and who do not hold any salaried office with the City of Mobile or County of Mobile. The board seats held by the members appointed by the City Council or like governing body of the City of Mobile shall be Seats No. 1 and No. 2. The person appointed to Place 1 shall serve an initial term of one (1) year and the person appointed to Place 2 shall serve an initial term of two (2) years, thereafter all members appointed by the City Council or like governing body shall serve terms of three (3) years. The person serving as finance director of the City of Mobile shall serve as long as he or she holds the position of finance director and shall have the power to designate his or her representative to the Board as long as he or she holds the position of finance director for the City of Mobile. No member of the board shall receive any compensation for serving on such board. Members may be reimbursed for expenses incurred on Pension Board business. Vacancies on such board among those elected from the police and fire departments

shall be filled by special election for such purpose to be called by the city clerk no later than thirty (30) days after a seat is deemed to be vacant by the board. Vacancies among those members appointed by the City Council of the City of Mobile or like governing body of the City shall be filled by appointment as soon as practicable after such vacancy occurs.

"(b) The board shall hold an organizational meeting no later than ten (10) days after all seats are filled and shall select a Chairman and Vice-Chairman and shall meet not less than once each month, and at such other times as may be considered necessary upon call of the Chairman. Five (5) members of the board shall constitute a quorum for transaction of business.

"(c) The board shall adopt and may amend from time to time rules and regulations as shall be necessary for the orderly dispatch of its business.

"(d) Separate and adequate records shall be kept by the board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

"(e) The City Council or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of an Executive Secretary of the Policemen and Fire Fighters Pension and Relief Fund Board, who shall be responsible for records required by this act and shall perform such duties as may be prescribed by the board.

"(f) The board as a group or the individual members thereof and the executive secretary employed by the board shall provide bond in such overall amount of such individual amounts as the board in its sole discretion shall deem adequate, but which in the aggregate shall total no less than \$150,000.00, conditioned upon faithful performance of its or their duties; the premium of such bonds or bond to be paid by the City of Mobile from the general fund.

"(g) All applications for pensions and relief under this act shall be heard and determined by the board.

"(h) Every member of the board shall have one (1) vote on all matters coming before the board except those matters concerning service-connected disability in which said cases concerning service-connected disability applications the members of the board appointed by the City Council or like governing body of the City of Mobile and the finance director of the City of Mobile or his or her designated representative shall have two (2) votes. (Act No. 91-701)

Editor's note: Previous versions of Section 9 are printed below; however, Section 9 of Act No. 51-774 correlates to Section 11 of the City of Mobile Act; Section 10 of Act No. 51-774 correlates to Section 9 of the City of Mobile Act, and is listed below:

"**Section 9.** (a) The Policemen and Fire Fighters Pension and Relief Fund Board, hereinafter referred to as "the board," is hereby created as the administrative authority for the management of the pension system. The board shall be comprised of nine members; three members to be elected from the police department, three members to be elected from the fire department, two members to be appointed from other areas by the City Council of Mobile or like governing body of the city of Mobile, and one

member to be the finance director for the City of Mobile, or said finance director's designated representative. The board seats held by the members of the police and fire departments shall be designated as Seats No. 1, No. 2 and No. 3, from each department and such seats shall be filled in a special election held for such purpose no later than sixty (60) days from the effective date of this act. The city clerk shall administer such election and shall circulate ballots to active members of the fire and police departments at the same time as such employees are distributed their salary warrants and in accordance with such other election rules as the city clerk deems necessary to administer such election in a fair and honest manner. The persons elected to Place No. 1 shall serve initial terms of one (1) year, persons elected to Place No. 2 shall serve initial terms of two (2) years, and the persons elected to Place No. 3 shall serve initial terms of (3) three years; thereafter, all elected members of such board shall serve for terms of three (3) years. Subsequent elections shall be held some time between six weeks and two weeks prior to the expiration date for the term of any seat on the board. The members appointed by the City of Mobile shall be reputable persons who are residents of the City of Mobile, over the age of twenty-one (21) years and who do not hold any salaried office with the City of Mobile or County of Mobile. The board seats held by the members appointed by the City Council or like governing body of the City of Mobile shall be Seats No. 1 and No. 2. The person appointed to Place 1 shall serve an initial term of one (1) year and the person appointed to Place 2 shall serve an initial term of two (2) years, thereafter all members appointed by the City Council or like governing body shall serve terms of three (3) years. The person serving as finance director of the City of Mobile shall serve as long as he or she holds the position of finance director and shall have the power to designate his or her representative to the Board as long as he or she holds the position of finance director for the City of Mobile. No member of the board shall receive any compensation for serving on such board. Members may be reimbursed for expenses incurred on Pension Board business. Vacancies on such board among those elected from the police and fire departments shall be filled by special election for such purpose to be called by the city clerk no later than thirty (30) days after a seat is deemed to be vacant by the board. Vacancies among those members appointed by the City Council of the City of Mobile or like governing body of the City shall be filled by appointment as soon as practicable after such vacancy occurs.

"(b) The board shall hold an organizational meeting no later than ten (10) days after all seats are filled and shall select a Chairman and Vice-Chairman and shall meet not less than once each month, and at such other times as may be considered necessary upon call of the Chairman. Five (5) members of the board shall constitute a quorum for transaction of business.

"(c) The board shall adopt and may amend from time to time rules and regulations as shall be necessary for the orderly dispatch of its business.

"(d) Separate and adequate records shall be kept by the board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

"(e) The City Council or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of an Executive Secretary of the Policemen and Fire Fighters Pension and Relief Fund Board, who shall be responsible for records required by this act and shall perform such duties as may be prescribed by the board.

"(f) The board as a group or the individual members thereof and the executive secretary employed by the board shall provide bond in such overall amount of such individual amounts as the board in its sole discretion shall deem adequate, but which in the aggregate shall total no less than \$150,000.00, conditioned upon faithful performance of its or their duties; the premium of such bonds or bond to be paid by the City of Mobile from the general fund.

"(g) All applications for pensions and relief under this act shall be heard and determined by the board.

"(h) Every member of the board shall have one (1) vote on all matters coming before the board except those matters concerning service-connected disability in which said cases concerning service-connected disability applications the members of the board appointed by the City Council or like governing body of the City of Mobile and the finance director of the City of Mobile or his or her designated representative shall have two (2) votes. (Act No.90-198)

"Section 9. (a) The Board of Pensions, hereinafter referred to as "the board," is hereby created as the administrative authority for the management of the pension system. The board shall be comprised of nine members. Three members to be elected from the Police Department and three members to be elected from the Fire Department, and three members to be appointed from other areas by the governing body of the city of Mobile as described hereinafter. The board seats held by the members of the police and fire departments shall be designated as Seats No. 1, No. 2 and No. 3 from each department and such seats shall be filled in a special election held for such purpose no later than 60 days from the effective date of this act. The city finance director shall administer such election and shall circulate ballots to active members of the

fire and police departments at the same time as such employees are distributed their salary warrants and in accordance with such other election rules as he deems necessary to administer such election in a fair and honest manner. The persons elected to the Places No. 1 shall serve initial terms of one year, persons elected to the Places No. 2 shall serve initial terms of two years, and the persons elected to the Places No. 3 shall serve initial terms of three years; thereafter, all elected members of such board shall serve for terms of three years. Subsequent elections shall be held sometime between six weeks and two weeks prior to the expiration date for the term of any seat on the board. Three members of said board shall be appointed by the board of commissioners or like governing body of the City of Mobile. The members appointed by the City of Mobile shall be reputable persons who are bona fide residents of the City of Mobile, over the age of twenty-one (21) years and who do not hold any salaried office with the City of Mobile or County of Mobile. The board seats held by such appointed members shall be Seats No. 1, No. 2 and No. 3. The person appointed to Place 1 shall serve an initial term of one year, the person appointed to Place 2 shall serve an initial term of two years, and the person appointed to Place 3 shall serve an initial term of three years; thereafter all appointed members shall serve terms of three years. No member of the board shall receive any compensation for serving on such board. Members may be reimbursed for expenses incurred on Pension Board business. Vacancies on such board among those elected from the police and fire departments shall be filled by special election for such purpose to be called by the city finance director no later than thirty days after a seat is deemed to be vacant by the board. Vacancies among those members appointed by the City of Mobile shall be filled by appointment as soon as practicable after such vacancy occurs.

"(b) The board shall hold an organizational meeting no later than ten days after all seats are filled and shall select a Chairman and Vice-Chairman and shall meet not less than once each month and at such other times as may be considered necessary upon call of the Chairman. Five members of the board shall constitute a quorum for transaction of business.

"(c) The board shall adopt and may amend from time to time rules and regulations as shall be necessary for the orderly dispatch of its business.

"(d) Separate and adequate records shall be kept by the board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

"(e) The Board of Commissioners or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of an Executive Secretary of the Board of Pensions, who shall be responsible for records required by this act and shall perform such duties as may be prescribed by the board.

"(f) The board as a group or the individual members thereof and the administrative secretary employed by the board, shall provide bond in such overall amount or such individual amounts as the board in its sole discretion shall deem adequate, but which in the aggregate shall total no less than \$150.00, conditioned upon faithful performance of its or their duties; the premium of such bonds or bond, to be paid by the City of Mobile from the general fund.

"(g) All applications for pensions and relief under this act shall be heard and determined by the board.

"(h) Every member of the board shall have one vote on all matters coming before the board except those matters concerning service connected disability in which said cases concerning service connected disability applications the members of the board appointed by the City governing body shall have two (2) votes. (Act No. 86-475)

**"Section 9.** (a) The Board of Pensions, hereinafter referred to as "the board," is hereby created as the administrative authority for the management of the pension system. The board shall be comprised of nine members. Three members to be elected from the Police Department and three members to be elected from the Fire Department, and three members to be appointed from other areas by the governing body of the city of Mobile as described hereinafter. The board seats held by the members of the police and fire departments shall be designated as Seats No. 1, No. 2 and No. 3 from each department and such seats shall be filled in a special election held for such purpose no later than 60 days from the effective date of this act. The city finance director shall administer such election and shall circulate ballots to active members of the fire and police departments at the same time as such employees are distributed their salary warrants and in accordance with such other election rules as he deems necessary to administer such election in a fair and honest manner. The persons elected to the Places No. 1 shall serve initial terms of one year, persons elected to the Places No. 2 shall serve initial terms of two years, and the persons elected to the Places No. 3 shall serve initial terms of three years; thereafter, all elected members of such board shall serve for terms of three years. Subsequent elections shall be held sometime between six weeks and two weeks prior to the expiration date for the term of any seat on the board. Three members of said board shall be appointed by the board of commissioners or like governing body of the City of Mobile. The



members appointed by the City of Mobile shall be reputable persons who are bona fide residents of the City of Mobile, over the age of twenty-one (21) years and who do not hold any salaried office with the City of Mobile or County of Mobile. The board seats held by such appointed members shall be Seats No. 1, No. 2 and No. 3. The person appointed to Place 1 shall serve an initial term of one year, the person appointed to Place 2 shall serve an initial term of two years, and the person appointed to Place 3 shall serve an initial term of three years; thereafter all appointed members shall serve terms of three years. No member of the board shall receive any compensation for serving on such board. Members may be reimbursed for expenses incurred on Pension Board business. Vacancies on such board among those elected from the police and fire departments shall be filled by special election for such purpose to be called by the city finance director no later than 30 days after a seat is deemed to be vacant by the board. Vacancies among those members appointed by the City of Mobile shall be filled by appointment as soon as practicable after such vacancy occurs.

"(b) The board shall hold an organizational meeting no later than 10 days after all seats are filled and shall select a Chairman and Vice-Chairman and shall meet not less than once each month and at such other times as may be considered necessary upon call of the Chairman. Five members of the board shall constitute a quorum for transaction of business.

"(c) The board shall adopt and may amend from time to time rules and regulations as shall be necessary for the orderly dispatch of its business.

"(d) Separate and adequate records shall be kept by the board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

"(e) The Board of Commissioners or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of an Executive Secretary of the Board of Pensions, who shall be responsible for records required by this act and shall perform such duties as may be prescribed by the board.

"(f) The board as a group or the individual members thereof and the administrative secretary employed by the board, shall provide bond in such overall amount or such individual amounts as the board in its sole discretion shall deem adequate, but which in the aggregate shall total no less than \$150.00, conditioned upon faithful performance of its or their duties; the premium of such bonds or bond, to be paid by the City of Mobile from the general fund.

"(g) All applications for pensions and relief under this act shall be heard and determined by the board.

"(h) Every member of the board shall have one vote on all matters coming before the board except those matters concerning service connected disability in which said cases concerning service connected disability applications the members of the board appointed by the City governing body shall have two (2) votes. (Act No. 85-938)

"**Section 9.** (a) The Board of Pensions, hereinafter referred to as "the board," is hereby created as the administrative authority for the management of the pension system. The board shall be comprised of nine members. Three members to be elected from the Police Department and three members to be elected from the Fire Department, and three members to be appointed from other areas by the governing body of the City of Mobile as described hereinafter. The board seats held by the members of the police and fire departments shall be designated as Seats No. 1, No. 2 and No. 3 from each department and such seats shall be filled in a special election held for such purpose no later than 60 days from the effective date of this act. The city finance director shall administer such election and shall circulate ballots to active members of the fire and police departments at the same time as such employees are distributed their salary warrant and in accordance with such other election rules as he deems necessary to administer such election in a fair and honest manner. The persons elected to the Places No. 1 shall serve initial terms of one year, persons elected to the Places No. 2 shall serve initial terms of two years, and the persons elected to the Places No. 3 shall serve initial terms of three years; thereafter, all elected members of such board shall serve for terms of three years. Subsequent elections shall be held sometime between six weeks and two weeks prior to the expiration date for the term of any seat on the board. Three members of said board shall be appointed by the board of commissioner or like governing body of the City of Mobile. The members appointed by the City of Mobile shall be reputable persons who are bona fide residents of the City of Mobile, over the age of twenty-one (21) years and who do not hold any salaried office with the City of Mobile or County of Mobile. The board seats held by such appointed members shall be seats No. 1, No. 2 and No. 3. The person appointed to Place 1 shall serve an initial term of one year, the person appointed to Place 2 shall serve an initial term of two years, and the person appointed to Place 3 shall serve an initial term of three years; thereafter all appointed members shall serve terms of three years. No member of the board shall receive any compensation for serving on such board. Members may be reimbursed for expenses incurred on Pension Board business. Vacancies on such board among those

electd from the police and fire departments shall be filled by special election for such purpose to be called by the city finance director no later than 30 days after a seat is deemed to be vacant by the board. Vacancies among those members appointed by the City of Mobile shall be filled by appointment as soon as practicable after such vacancy occurs.

"(b) The board shall hold an organizational meeting no later than 10 days after all seats are filled and shall select a Chairman and Vice-Chairman and shall meet not less than once each month and at such other times as may be considered necessary upon call of the Chairman. Five members of the board shall constitute a quorum for transaction of business.

"(c) The board shall adopt and may amend from time to time rules and regulations as shall be necessary for the orderly dispatch of its business.

"(d) Separate and adequate records shall be kept by the board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

"(e) The Board of Commissioners or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of an Executive Secretary of the Board of Pensions, who shall be responsible for records required by this act and shall perform such duties as may be prescribed by the board.

"(f) The board as a group or the individual members thereof and the administrative secretary employed by the board, shall provide bond in overall amount or such individual amounts as the board in its sole discretion shall deem adequate, but which in the aggregate shall total no less than \$150,000.00, conditioned upon faithful performance of its or their duties; the premium of such bonds or bond, to be paid by the City of Mobile from the general fund.

"(g) All applications for pensions and relief under this act shall be heard and determined by the board.

"(h) Every member of the board shall have one vote on all matters coming before the board except those matters concerning service connected disability in which said cases concerning service connected disability applications the members of the board appointed by the City governing body shall have two (2) votes. (Act No. 85-312)

**Section 9.** (a) The board, created by the Board of Commissioners or other governing body of the City of Mobile to carry out the provisions of this Act, hereinafter referred to as 'the Board,' shall be designated 'The Board of Policemen's and Fire Fighter's Pensions of the City of Mobile.' The Board shall consist of five reputable persons who are bona fide residents of the City of Mobile, over the age of twenty-one, who do not hold any salaried office with the City or County of Mobile. One active member of Mobile's police department and one active member of the Mobile fire department shall also serve as members of the Board. The terms of office of members of the Board who are serving when this act of amendment becomes effective shall be the same as fixed under Act No. 359, H. 366, Special Session 1966, approved September 12, 1966. Upon the respective expirations of the extended terms of such members their successors shall be appointed by the Board of Commissioners or other governing body of the City of Mobile in the same manner that the first members of the Board were appointed. They shall hold office for terms of six years and until their successors are appointed, unless sooner removed; however they may be removed at any time for good cause by the appointing authority. No member of the Board shall receive any compensation for serving as a member thereof.

"(b) The board shall organize by the election of a Chairman and Vice-Chairman and shall meet not less than once each month and at such other time as may be considered necessary upon call of the Chairman. Four members of the Board shall constitute a quorum for transaction of business.

"(c) Separate and adequate records shall be kept by the Board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

"(d) The Board of Commissioners or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of a Secretary of the Board of Pensions, who shall be responsible for records required in this section and Section 22 hereof and shall perform such other duties as may be prescribed by the Board.

"(e) The Board of Pensions as a group or the individual members thereof shall provide bond in such overall amount or such individual amounts as the Board in its sole discretion shall deem adequate, but which in the aggregate shall total no less than \$150,000, conditioned upon faithful performance of its, or their duties; the premium of such bond or bonds, to be paid by the City of Mobile from the general fund.

"(f) All applications for pensions and relief under this Act shall be heard and determined by the Board of Pensions.

"(g) Vacancies on the Board for any cause shall be filled by appointment of the governing body of the City of Mobile for the unexpired term. (Act No. 71-1484)

"Section 9. (a) The board, created by the Board of Commissioners or other governing body of the City of Mobile to carry out the provisions of this Act, hereinafter referred to as 'the Board,' shall be designated 'The Board of Policemen's and Fire Fighter's Pensions of the City of Mobile.' The Board shall consist of five reputable persons who are bona fide residents of the City of Mobile, over the age of twenty-one, who do not hold any salaried office with the City or County of Mobile. One active member of Mobile's police department and one active member of the Mobile fire department shall also serve as members of the Board. The terms of office of members of the Board who are serving when this act of amendment becomes effective shall be the same as fixed under Act No. 359, H. 366, Special Session 1966, approved September 12, 1966. Upon the respective expirations of the extended terms of such members their successors shall be appointed by the Board of Commissioners or other governing body of the City of Mobile in the same manner that the first members of the Board were appointed. They shall hold office for terms of six years and until their successors are appointed, unless sooner removed; however they may be removed at any time for good cause by the appointing authority. No member of the Board shall receive any compensation for serving as a member thereof.

"(b) The board shall organize by the election of a Chairman and Vice-Chairman and shall meet not less than once each month and at such other time as may be considered necessary upon call of the Chairman. Four Members of the Board shall constitute a quorum for transaction of business.

"(c) Separate and adequate records shall be kept by the Board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

"(d) The Board of Commissioners or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of a Secretary of the Board of Pensions, who shall be responsible for records required in this section and Section 22 hereof and shall perform such other duties as may be prescribed by the Board.

"(e) The Chairman of the Board of Pensions shall provide bond in the penal sum of \$25,000 conditioned upon faithful performance of his duties, the premium of which shall be paid by the City of Mobile from the General Fund.

"(f) All applications for pensions and relief under this Act shall be heard and determined by the Board of Pensions.

"(g) Vacancies on the Board for any cause shall be filled by appointment of the governing body of the City of Mobile for the unexpired term." (Act No. 67-180)

"Section 9. (a) The board, created by the Board of Commissioners or other governing body of the City of Mobile to carry out the provisions of this Act, hereinafter referred to as 'the Board,' shall be designated 'The Board of Policemen's and Fire Fighter's Pensions of the City of Mobile.' The Board shall consist of five reputable persons who are bona fide residents of the City of Mobile, over the age of twenty-one, who do not hold any salaried office with the City or County of Mobile. One active member of Mobile's police department and one active member of the Mobile fire department shall serve in an advisory capacity to the Board, but shall not have a vote. The term of office of members of the Board who are serving when this amendment becomes law are hereby extended as follows: The term of one member is extended two years, the terms of two members are extended four years and the terms of two members are extended six years. Members of the Board shall draw lots to determine the length of the extensions of their terms. Upon the respective expirations of the extended terms of such members their successors shall be appointed by the Board of Commissioners or other governing body of the City of Mobile in the same manner that the first members of the Board were appointed. They shall hold office for terms of six years and until their successors are appointed, unless sooner removed; however they may be removed at any time for good cause by the appointing authority. No member of the Board shall receive any compensation for serving as a member thereof.

"(b) The board shall organize by the election of a Chairman and Vice-Chairman and shall meet not less than once each month and at such other time as may be considered necessary upon call of the Chairman. Three Members of the Board shall constitute a quorum for transaction of business.

"(c) Separate and adequate records shall be kept by the Board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

"(d) The Board of Commissioners or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of a Secretary of the Board of Pensions, who shall be responsible for records required in this section and Section 22 hereof and shall perform such other duties as may be prescribed by the Board.

"(e) The Chairman of the Board of Pensions shall provide bond in the penal sum of \$25,000 conditioned upon faithful performance of his duties, the premium of which shall be paid by the City of Mobile from the General Fund.

"(f) All applications for pensions and relief under this Act shall be heard and determined by the Board of Pensions.

"(g) Vacancies on the Board for any cause shall be filled by appointment of the governing body of the City of Mobile for the unexpired term." (Act No. 66-359)

**Section 9.** (a) The Board of Commissioners or other governing body of the City shall create a Board to carry out the provisions of this Act, which shall be designated "The Board of Policemen's and Fire Fighter's Pensions of the City of Mobile", hereinafter called "The Board". The Board shall consist of five reputable persons who are bona fide residents of the City of Mobile, over the age of 21, who do not hold any salaried office with the city or county of Mobile. One active member of Mobile's police department and one active member of the Mobile fire department shall serve in an advisory capacity to the Board, but shall not have a vote. Members of the Board shall hold office for six years and until their successors are appointed, unless sooner removed at any time for good cause by the appointing authority. No member of the Board shall receive any compensation for this.

(b) The Board shall organize by the election of a Chairman and Vice-Chairman and shall meet not less than once each month and at such other time as may be considered necessary upon call of the Chairman. Three Members of the Board shall constitute a quorum for transaction of business.

(c) Separate and adequate records shall be kept by the Board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

(d) The Board of Commissioners or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of a Secretary of the Board of Pensions, who shall be responsible for records required in this section and Section 22 hereof and shall perform such other duties as may be prescribed by the Board.

(e) The Chairman of the Board of Pensions shall provide bond in the penal sum of \$25,000 conditioned upon faithful performance of his duties, the premium of which shall be paid by the City of Mobile from the General Fund.

(f) All applications for pensions and relief under this Act shall be heard and determined by the Board of Pensions.

(g) Vacancies on the Board for any cause shall be filled by appointment of the governing body of the City of Mobile for the unexpired term." (Act No. 64-243)

**Section 10.** The Board of Commissioners, or other governing body of the respective cities governed by the provisions of this Act shall hear and decide all applications for pensions and relief under this Act, and the decisions on such applications shall be final and conclusive, and not subject to review or reversal, except by such authority itself. Said Board or governing body shall cause to be kept a complete and separate record of all its meetings and proceedings under the provisions of this Act. (No. 51-774)

**Section 10.** No portion of said Policemen's and Fire Fighters' Pension and Relief Fund shall, before or after its order for distribution, be seized or held or in any wise subject to garnishment or levy of execution or attachment issued out of or by any court of this State, or any other State, so far as any debt, damage, demand, claim, judgment or decree against any beneficiary in such funds, but shall be exempt therefrom. (Act No. 86-475)

Editor's note - Previous versions of Section 10 are printed below; however, in regard to Act No. 51-774, Section 10 correlates to Section 9 of the City of Mobile Act and Section 11 correlates to Section 10 of the City of Mobile Act, as printed below:

**Section 10.** No portion of said Policemen's and Fire Fighters' Pension and Relief Fund shall, before or after its order for distribution, be seized or held or in any wise subject to garnishment or levy of execution or attachment issued out of or by any court of this State, or any other State, so far as any debt, damage, demand, claim, judgment or decree against any beneficiary in such funds, but shall be exempt therefrom. (Act No. 85-938)

**Section 10.** No portion of said Policemen's and Fire Fighters' Pension and Relief Fund shall, before or after its order for distribution, be seized or held or in any wise subject to garnishment or levy of execution or attachment issued out of or by any court of this State, or any other State, so far as any debt, damage, demand, claim, judgment or decree against any beneficiary in such funds, but shall be exempt therefrom. (Act No. 85-312)

**Section 10.** All warrants drawn against the fund shall be on order of the Chairman of the Board of Pensions and shall be signed as are other warrants signed and executed by authorized authorities of the

City. However, such warrants shall be different in color, or otherwise, so as to distinguish them from other City warrants drawn by said City. No portion of said Policemen's and Fire Fighter's Pension and Relief Funds shall, before or after its order for distribution, be seized or held or in any wise subject to garnishment or levy of execution or attachment issued out of or by any court of this State, or any other State, so far as any debt, damage, demand, claim, judgment or decree against any beneficiary in such funds, but shall be exempt therefrom. (Act No. 64-243)

**Section 11.** That all warrants drawn against such funds shall be signed as are other warrants signed and executed by authorized authorities of the respective cities. However, such warrants shall be different in color, or otherwise, so as to distinguish them from other city warrants drawn by said city. No portion of said policemen's and firemen's pension and relief funds shall, before or after its order for distribution, be seized or held or in any wise subject to garnishment or levy of execution or attachment issued out of or by any Court of this State, or any other State, so far as same may be sought to respond to the payment or satisfaction of any debt, damage, demand, claim, judgment or decree against any beneficiary in such funds, but shall be exempt therefrom. (Act No. 51-774)

**Section 11.** Only state certified police officers or fire fighters and those persons in training for said positions with the City of Mobile employed by the city police and fire departments after the effective date of this act shall be eligible to become members of this pension system and membership shall be mandatory for said police officers and fire fighters. Provided, however, any member may withdraw within 60 days of the effective date of this act from participation in the Pensions and Relief System upon filing with the Board of Pensions on a form prescribed by such Board a notice of his election to withdraw from the System. Any such member who elects to withdraw shall be entitled to have his contributions to the Fund paid to him upon demand at the time of his withdrawal. (Act No. 86-475)

Editor's note - Previous versions of Section 11 are listed below; however, Section 11 of Act No. 51-774 correlates to Section 10 of the City of Mobile Act and Section 9 of Act No. 51-774 correlates to Section 11, as listed below:

**Section 11.** Only state certified police officers or fire fighters and those persons in training for said positions with the City of Mobile employed by the city police and fire departments after the effective date of this act shall be eligible to become members of this pension system and membership shall be mandatory for said police officers and fire fighters. Provided, however, any member may withdraw within 60 days of the effective date of this act from participation in the Pensions and Relief System upon filing with the Board of Pensions on a form prescribed by such Board a notice of his election to withdraw from the System. Any such member who elects to withdraw shall be entitled to have his contributions to the Fund paid to him upon demand at the time of his withdrawal. (Act No. 85-938)

**Section 11.** Only state certified police officers or fire fighters and those persons in training for said positions with the City of Mobile employed by the city police and fire departments after the effective date of this act shall be eligible to become members of this pension system and membership shall be mandatory for said police officers and fire fighters. (Act No. 85-312)

**Section 11.** Every member of such police and fire departments shall come under the provisions and benefits of this Act, but no member of the Board of Commissioners or of other departments of the City shall be entitled to benefits hereunder. (Act No. 64-243)

**Section 9.** Every member of such police and fire departments, including officers, detectives, patrolmen, wardens, firemen, engineers, captains, chief engineer, chief of the fire department; chief of the police department, and assistants chief of the fire department of the respective cities, shall come under the provisions and benefits of this Act, but no member of the Board of commissioners or other governing body of the respective cities shall be entitled to the benefits of this Act. (Act No. 51-774)

**"Section 12.** If any member of such police or fire department, while in the performance of his duties, becomes and is found to be temporarily totally disabled, mentally or physically, for services in such police or fire departments, by reason of service therein, the Board of Pensions shall order the payment and there shall be paid from the fund herein provided to such disabled member an amount not to exceed fifty per cent of his monthly salary, and in such an amount as when added to any

Workmen's Compensation due, the total will not exceed 100 per cent of his monthly salary, that such member during the period of total disability. Provided, however, that such member during the period of disability is paid no salary as a member of the police or fire department or any other department of the City, and provided further that such payment shall not continue beyond one year from the date of determination of temporary total disability. Such disability shall be determined by the Board of pensions after report from the City Physician, and such other physicians and surgeons as the Board may consult, and after the consideration of any other evidence the Board may desire to consider." (Act No. 78-887)

Editor's note - Previous versions of Section 12 are listed below:

**Section 12.** If any member of such police and fire department, while in the performance of his duties, becomes and is found to be temporarily totally disabled, mentally or physically, for services in such police or fire departments, by reason of service therein, the Board of Pensions shall order the payment and there shall be paid from the fund herein provided to such disabled member an amount equal to fifty per cent of his monthly salary, but not to exceed one hundred dollars per month, during such period of total disability. Provided, however, that such member during the period of disability is paid no salary as a member of the police or fire department or any other department of the city, and provided further that such payment shall not continue beyond one year from the date of determination of temporary total disability. Such disability shall be determined by the Board of Pensions after report from the City Physician, and such other physicians and surgeons as the Board may consult, and after the consideration of any other evidence the Board may desire to consider. (Act No. 64-243)

**Section 12.** That if any member of such Police and Fire Department, while in the performance of his duties, becomes and be found to be temporarily totally disabled, mentally or physically, for services in such police or fire departments, by reason of service therein, the Board of Commissioners or other governing body of said city or cities, shall order the payment, and there shall be paid from the proper fund, herein provided for to such disabled member, an amount equal to fifty per centum of his monthly salary, not exceeding one hundred dollars per month, during such total disability, which payment shall be made monthly and for a period not longer than one year; and such disability shall be arrived at by such authority, after report from the city physician, and such other physicians and surgeons as such authority may examine, and after the consideration of any other evidence, such authority may desire to consider; this, provided such member, during the same period, is paid no salary as a member of the police or fire department or any other department of the city. (Act No. 51-774)

**Section 13.** (a) If any member of police and fire departments while in the performance of his or her duty is found and determined to be physically or mentally permanently disabled for service by reason of such service so as to render his or her retirement necessary, the board shall make the necessary orders and shall retire the disabled member from service. Upon such retirement, the member shall be paid monthly from the fund an amount equal to 60 percent of his or her monthly salary, the payments to be made during the disability. Any member receiving a disability pension under this act shall be limited for a period of three years subsequent to retirement in the amount of any additional income which the member may earn and remain eligible to draw the full amount of the disability pension. The additional earned income shall be limited during the three-year period to an amount which when added to such disability pension would not exceed the salary which the pensioner was earning at the time he or she was disabled. If the additional income should exceed that limit, the amount of the disability pension shall be decreased or prorated by the amount necessary to comply with the limitation. During the month of the anniversary date of any disability retirement for each year of the first three years of retirement, each pensioner shall reaffirm his or her disability to the satisfaction of the board

according to rules and procedures as may be promulgated from time to time by the board.

"(b) Notwithstanding subsection (a) of this act, the disability of a member of the police department caused by hypertension, heart disease, respiratory disease, AIDS, and hepatitis shall be deemed a service-disability under subsection (a) of this act if the member of the police department shows either of the following:

"(1) Upon entering the service as a member of the police department, a physical examination was successfully passed which failed to review any evidence of hypertension, heart disease, respiratory disease, AIDS, and hepatitis and the officer has completed 3 years service as a police officer for the City of Mobile,

"(2) A physical examination was not required at the time of entry into service and the police officer has 3 years continuous service as a police officer for the City of Mobile.

"(c) The following words as used in this section shall have the following meanings unless the context clearly indicates otherwise:

"(1) AIDS. AIDS which manifests itself in a policeman during the period in which the members of the police department is in the service of the city, provided the policeman demonstrates that he or she was exposed to AIDS while in the line and scope of his or her employment with the city.

"(2) HEPATITIS. Hepatitis which manifests itself in a member of the police department during the period in which the policeman is in the service of the city, provided the policeman demonstrates that he or she was exposed to hepatitis while in the line and scope of his or her employment with the city.

"(d) During the first week of each new fiscal year, the city shall reimburse the pension system in the amount of the total cost of all disability pensions and death benefits paid by the system throughout the preceding fiscal year. This provision shall be applicable only to disability pensions and death benefits incurred after the date of this act. All disability pension and death benefits obligations in existence at the time of the passage of this act shall continue to be paid by said pension system."

This act shall not be construed to cover any disability that occurs prior to employment by the City of Mobile. (Act No. 95-571)

Editor's note - Previous versions of Section 13 are listed below:

"**Section 13.** (a) If any member of police or fire departments while in the performance of his duty is found and determined to be physically or mentally permanently disabled for service by reason of such service so as to render his retirement necessary, the board shall make the necessary orders and shall retire such disabled member from service. Upon such retirement the member shall be paid monthly from the fund, an amount equal to sixty percent (60%) of his monthly salary, the payments to be made during such

disability. Any member receiving a disability pension under this act shall be limited for a period of three (3) years subsequent to retirement in the amount of any additional income which such member may earn and remain eligible to draw the full amount of such disability pension. Such additional earned income shall be limited during said three-year period to such an amount which when added to such disability pension would not exceed the salary which such pensioner was earning at the time he or she was disabled. If the additional income should exceed the limit herein prescribed, the amount of the disability pension shall be decreased or prorated by the amount necessary to comply with such limitation. During the month of the anniversary date of any disability retirement for each year of the first three years of such retirement, each pensioner shall reaffirm his or her disability to the satisfaction of the board according to rules and procedures as may be promulgated from time to time by the board.

"(b) During the first week of each new fiscal year, the city shall reimburse the pension system in the amount of the total cost of all disability pensions and death benefits paid by the system throughout the preceding fiscal year. This provision shall be applicable only to disability pensions and death benefits incurred after the date of this act. All disability pension and death benefits obligations in existence at the time of the passage of this act shall continue to be paid by said pension system. (Act No. 86-475)

**"Section 13.** (a) If any member of police or fire departments while in the performance of his duty is found and determined to be physically or mentally permanently disabled for service by reason of such service so as to render his retirement necessary, the board shall make the necessary orders and shall retire such disabled member from service. Upon such retirement the member shall be paid monthly from the fund, an amount equal to sixty percent (60%) of his monthly salary, the payments to be made during such disability. Any member receiving a disability pension under this act shall be limited for a period of three (3) years subsequent to retirement in the amount of any additional income which such member may earn and remain eligible to draw the full amount of such disability pension. Such additional earned income shall be limited during said three-year period to such an amount which when added to such disability pension would not exceed the salary which such pensioner was earning at the time he or she was disabled. If the additional income should exceed the limit herein prescribed, the amount of the disability pension shall be decreased or prorated by the amount necessary to comply with such limitation. During the month of the anniversary date of any disability retirement for each year of the first three years of such retirement, each pensioner shall reaffirm his or her disability to the satisfaction of the board according to rules and procedures as may be promulgated from time to time by the board.

"(b) During the first week of each new fiscal year, the city shall reimburse the pension system in the amount of the total cost of all disability pensions and death benefits paid by the system throughout the preceding fiscal year. This provision shall be applicable only to disability pensions and death benefits incurred after the date of this act. All disability pension and death benefits obligations in existence at the time of the passage of this act shall continue to be paid by said pension system. (Act No. 85-938)

**"Section 13.** (a) If any member of police or fire departments while in the performance of his duty is found and determined to be physically or mentally permanently disabled for service by reason of such service so as to render his retirement necessary, the board shall make the necessary orders and shall retire such disabled member from service. Upon such retirement the member shall be paid monthly from the fund, an amount equal to sixty percent (60%) of his monthly salary, the payments to be made during such disability. Any member receiving a disability pension under this act shall be limited for a period of three (3) years subsequent to retirement in the amount of any additional income which such member may earn and remain eligible to draw the full amount of such disability pension. Such additional earned income shall be limited during said three-year period to such an amount which when added to such disability pension would not exceed the salary which pensioner was earning at the time he or she was disabled. If the additional income should exceed the limit herein prescribed, the amount of the disability pension shall be decreased or prorated by the amount necessary to comply with such limitation. During the month of the anniversary date of any disability retirement for each year of the first three years of such retirement, each pensioner shall reaffirm his or her disability to the satisfaction of the board according to rules and procedures as may be promulgated from time to time by the board.

"(b) During the first week of each new fiscal year, the city shall reimburse the pension system in the amount of the total cost of all disability pensions and death benefits paid by the system throughout the preceding fiscal year. This provision shall be applicable only to disability pensions and death benefits incurred after the date of this act. All disability pension and death benefits obligations in existence at the time of the passage of this act shall continue to be paid by said pension system. (Act No. 85-312)

**"Section 13.** (a) If any member of the police or fire department while in the performance of his duty is found and determined to be physically or mentally permanently disabled for service by reason of such service so as to render his retirement necessary, the Board of Pensions shall make the necessary orders and shall retire such disabled member from service. Upon such retirement the member shall be paid



monthly from the Fund, an amount equal to sixty per cent of his monthly salary, the payments to be made during such disability.

(b) Should any member of such police or fire department who has served in such department for a period of fifteen years be found to be physically or mentally disabled (through no misconduct on his part) for service in such police or fire departments, so as to render his retirement from such service necessary, the Board of Pensions shall make the necessary order, and shall retire such disabled member from service and upon such retirement the member shall be paid monthly from the Policemen's and Fire Fighter's Pension and Relief Fund an amount equal to fifty per cent of his monthly salary. Such members under subsection (a) and (b) herein may be called back and examined at any time under the orders of the Board of Pensions, and may be ordered back to active service, or to perform other services in connection with the City, such as he is able to perform, according to the instructions, findings and orders of the Board. While in active service, such pension will not be paid. (Act No. 64-243)

**"Section 13.** That if any member of such police or fire department while in the performance of his duty, becomes or be found to be physically or mentally permanently disabled for service in such police or fire departments, by reason of such service therein, so as to render his retirement from such service necessary, the Board of Commissioners or other governing body of said city shall make the necessary orders, and shall retire such disabled members from service in such police or fire department; and upon such retirement such member shall be paid monthly, from such funds, an amount equal to sixty percentum of his monthly salary, the payments to be made during such disability. Should any member of such police or fire department who has served in such department for a period of fifteen years be found to be physically or mentally permanently disabled through no misconduct on his part for service in such police or fire departments, so as to render his retirement from such service necessary, the board of commissioners or other governing body of said city shall make necessary order, and shall retire such disabled member from service, in such police and fire department; and upon such retirement such member shall be paid monthly from the policemen's and firemen's pension and relief funds an amount equal to fifty percentum of his monthly salary. Such members may be called back and examined at any time under the orders of such authority, and may be ordered back to active service, or to perform other services in connection with the city, such as he is able to perform, according to the instructions, findings and orders of such authority referred to. (Act No. 51-774)

**"Section 14.** (a) Any member of such pension system who has been in service for twenty (20) years or more, the last ten (10) years of which being consecutive service, and has reached the age of fifty (50) years, upon making written application to the board, shall, without medical examination or disability, be retired from service; and upon such retirement, the board shall direct the payment to such member, monthly from the pension fund, a sum equal to two and one-half percent (2-1/2%) of his final average salary, which shall be the same as the average of any salaries received by the member for the last three (3) full years in active service multiplied by the number of years of service of said retiree. Provided, however, the maximum pension shall not exceed seventy-five percent (75%) of the member's final average salary; said retiree shall receive a minimum of fifty percent (50%) of the average monthly compensation or salary received by such member as salary in such fire or police department during the final three (3) years of service. Provided, however, that said payments to said retired member of the police or fire department shall not commence or be effective earlier than the fiftieth (50th) birthday of the member.

"(b) Any person who is employed by either the police or the fire department of the City of Mobile subsequent to the passage of this act, and who remains in such service for twenty (20) years or more, the last ten (10) years of which being consecutive service, and has reached the age of fifty-five (55) years, upon making written application to the board, shall, without medical examination or disability, be retired from service; and upon such retirement, the board shall direct the payment to such member, monthly from the pension fund, of a sum equal to two and one-half percent (2-1/2%) of his final average salary, for the first twenty (20) years of service,

and a sum equal to two and one-quarter percent (2-1/4%) of his final average salary (which shall be the same as the average of any salaries received by the member for the last five (5) full years in active service) multiplied by the number of years of service of said retiree over and above twenty (20) years of service. Provided, however, the maximum pension shall not exceed seventy-two and one-half percent (72-1/2%) of the member's final average salary; said retiree shall receive a minimum of fifty percent (50%) of his final average monthly compensation or salary received by such member. Provided, however, that said payments to said retired member of the police and fire departments shall not commence or be effective earlier than the fifty-fifth (55th) birthday of the member.

"(c) Members of the fund at the time of the passage of this act who continue in service beyond thirty (30) full years, shall continue after thirty (30) years of service to make contributions to the Fund, if, at the time of the passage of this act such members have not yet attained thirty (30) years of service, regardless of their initial date of employment." (Act No. 91-701)

Editor's note - Previous versions of Section 14 are listed below: (The preamble to Act No. 78-887 makes reference to an amendment to Section 14; however it is not included among the amended sections of that Act.)

**"Section 14.** (a) Any member of such pension system who has been in service for twenty (20) years or more, the last ten (10) years of which being consecutive service, and has reached the age of fifty (50) years, upon making written application to the board, shall, without medical examination or disability, be retired from service; and upon such retirement, the board shall direct the payment to such member, monthly from the pension fund, a sum equal to two and one-half percent (2-1/2%) of his final average salary, which shall be the same as the average of any salaries received by the member for the last three (3) full years in active service multiplied by the number of years of service of said retiree. Provided, however, the maximum pension shall not exceed seventy-five percent (75%) of the member's final average salary; said retiree shall receive a minimum of fifty percent (50%) of the average monthly compensation or salary received by such member as salary in such fire or police department during the final three (3) years of service. Provided, however, that said payments to said retired member of the police or fire department shall not commence or be effective earlier than the fiftieth (50th) birthday of the member.

"(b) Any person who is employed by either the police or the fire department of the City of Mobile subsequent to the passage of this act, and who remains in such service for twenty (20) years or more, the last ten (10) years of which being consecutive service, and has reached the age of fifty-five (55) years, upon making written application to the board, shall, without medical examination or disability, be retired from service; and upon such retirement, the board shall direct the payment to such member, monthly from the pension fund, of a sum equal to two and one-half percent (2-1/2%) of his final average salary, for the first twenty (20) years of service, and a sum equal to two and one-quarter percent (2-1/4%) of his final average salary (which shall be the same as the average of any salaries received by the member for the last five (5) full years in active service) multiplied by the number of years of service of said retiree over and above twenty (20) years of service. Provided, however, the maximum pension shall not exceed seventy-two and one-half percent (72-1/2%) of the member's final average salary; said retiree shall receive a minimum of fifty percent (50%) of his final average monthly compensation or salary received by such member. Provided, however, that said payments to said retired member of the police and fire departments shall not commence or be effective earlier than the fifty-fifth (55th) birthday of the member.

"(c) Members of the fund at the time of the passage of this act who continue in service beyond thirty (30) full years, shall continue after thirty (30) years of service to make contributions to the Fund, if, at the time of the passage of this act such members have not yet attained thirty (30) years of service, regardless of their initial date of employment." (Act No. 90-198)

**"Section 14.** Any member of such pension system who has been in service for twenty (20) years or more, the last ten (10) years of which being consecutive service, and has reached the age of fifty years, upon making written application to the board, shall, without medical examination or disability, be retired from service; and upon such retirement, the board shall direct the payment to such member, monthly from the pension fund, a sum equal to two and one-half percent (2-1/2%) of his final average salary, which shall be the same as the average of any salaries received by the member for the last three full years in active

service multiplied by the number of years of service of said retiree. Provided, however, the maximum pension shall not exceed seventy-five percent (75%) of the member's final average salary; said retiree shall receive a minimum of fifty percent (50%) of the average monthly compensation or salary received by such member as salary in such fire or police department during the final three years of service. Further contributions to said fund shall not be required of members after thirty (30) years service; provided, however, that said payments to said retired member of the police or fire department shall not commence or be effective earlier than the fiftieth (50th) birthday of the member. (Act No. 86-475)

**"Section 14.** Any member of such pension system who has been in service for twenty (20) years or more, the last ten (10) years of which being consecutive service, and has reached the age of fifty years, upon making written application to the board, shall, without medical examination or disability, be retired from service; and upon such retirement, the board shall direct the payment to such member, monthly from the pension fund, a sum equal to two and one-half percent (2-1/2%) of his final average salary, which shall be the same as the average of any salaries received by the member for the last three full years in active service multiplied by the number of years of service of said retiree. Provided, however, the maximum pension shall not exceed seventy-five percent (75%) of the member's final average salary; said retiree shall receive a minimum of fifty percent (50%) of the average monthly compensation or salary received by such member as salary in such fire or police department during the final three years of service. Further contributions to said fund shall not be required of members after thirty (30) years service; provided, however, that said payments to said retired member of the police or fire department shall not commence or be effective earlier than the fiftieth (50th) birthday of the member. (Act No. 85-938)

**"Section 14.** Any member of such pension system who has been in service for twenty (20) years or more, the last ten (10) years of which being consecutive service, and has reached the age of fifty years, upon making written application to the board, shall, without medical examination or disability, be retired from service; and upon such retirement, the board shall direct the payment to such member, monthly from the pension fund, a sum equal to two and one-half percent (2-1/2%) of his final average salary, which shall be the same as the average of any salaries received by the member for the last three full years in active service multiplied by the number of years of service of said retiree. Provided, however, the maximum pension shall not exceed seventy-five percent (75%) of the member's final average salary; said retiree shall receive a minimum of fifty percent (50%) of the average monthly compensation or salary received by such member as salary in such fire or police department during the final three years of service. Further contributions to said fund shall not be required of members after thirty (30) years service; provided, however, that said payments to said retired member of the police or fire department shall not commence or be effective earlier than the fiftieth (50th) birthday of the member. (Act No. 85-312)

**Section 14.** Any member or former member of the police or fire department who has been in the service thereof for as long as twenty consecutive years, upon making written application to the Board of Pensions therefor, shall, without medical examination or disability, be retired from service in such police or fire department; and, upon such retirement, the said Board of Pensions shall direct the payment to such retired member monthly from the Fund herein created a sum equal to fifty per cent of the monthly compensation or salary received by such member as salary in such fire or police department at the time of his retirement; provided, however, that said payments to said retired member of the police or fire department shall not commence or be effective earlier than the fifty-fifth birthday of the member. (Act No. 64-243)

**Section 14.** Any member or former member of such police or fire department who has been in the service thereof for as long as twenty consecutive years upon making written application to the board of commissioners therefor, shall, without medical examination or disability, be retired from service in such police or fire department; and, upon such retirement, the said Board of Commissioners shall direct the payment to such retired member monthly from such fund, a sum equal to one half of the monthly compensation or salary received by such member as salary in such fire or police department at the time of his retirement; provided, however, that said payments to said retired member of the police or fire department shall not commence or be effective until such person shall have attained the age of fifty five years. (Act No. 51-774)

**Editor's note:** Section 15 was repealed in Acts 85-312, 85-938, and 86-475. The preamble to Act No. 78-887 makes reference to an amendment to Section 15; however, it is not included among the amended sections of that Act.

**Section 15.** (a) Any member or former member of such police or fire department who has been in the service thereof for as long as twenty five years, the last ten years of which have been continuous, upon making written application to the Board of

Pensions shall, without medical examination or disability, be retired from service of such fire or police department, and upon such retirement, the said Board shall direct the payment to such retiring member, commencing not earlier than the fifty-fifth birthday of such member, monthly from such Fund, a sum equal to fifty-two and one half per cent of the monthly compensation received by such member as salary in such police or fire department at the time of his retirement.

(b) Any member or former member of such police or fire department who has been in the service thereof for as long as thirty years, the last ten years of which have been continuous, upon making written application to the Board of Pensions therefor, shall without medical examination or disability, be retired from service of such police or fire department, and upon such retirement, the said Board shall direct the payment to such retiring member, commencing not earlier than the fifty-fifth birthday of such member, monthly from such Fund, a sum equal to fifty-five per cent of the monthly compensation received by such member as salary in such police or fire department at the time of his retirement.

(c) Any member or former member of such police or fire department who has been in the service thereof for as long as thirty five years or longer, the last ten years of which have been continuous, upon making written application to the Board of Pensions thereof shall, without medical examination or disability, be retired from service of such police or fire department, and upon such retirement, the said Board shall direct the payment to such retiring member, commencing not earlier than the fifty-fifth birthday of such member, monthly from such Fund, a sum equal to sixty per cent of the monthly compensation received by such member as salary in such police or fire department at the time of his retirement. (Act No. 64-243)

Editor's note - Previous version of Section 15 is listed below:

**Section 15.** Any member or former member of such police or fire department who has been in the service thereof for as long as twenty five years, the last ten years of which have been continuous, upon making written application to the board of commissioners therefor, shall, without medical examination or disability, be retired from service of such fire or police department, and upon such retirement, the said board shall direct the payment to such retiring member, commencing on the fifty-fifth birthday of such member, monthly from such fund, a sum equal to one half of the monthly compensation received by such member as salary in such fire or police department at the time of his retirement. Any member or former member of such police or fire department who has been in the service thereof for as long as thirty years, the last ten years of which have been continuous, upon making written application to the board of commissioners therefor, shall, without medical examination or disability, be retired from service of such fire or police department, and upon such retirement, the said board shall direct the payment to such retiring member, commencing on the fifty-fifth birthday of such member, monthly from such fund, a sum equal to fifty-five per cent of the monthly compensation received by such member as salary in such fire or police department at the time of his retirement. Any member or former member of such police or fire department who has been in the service thereof for as long as thirty five years or longer, the last ten years of which have been continuous, upon making written application to the board of commissioners therefor shall, without medical examination or disability, be retired from service of such fire or police department, and upon such retirement, the said board shall direct the payment to such retiring member, commencing on the fifty-fifth birthday of such member, monthly from such fund, a sum equal to sixty per cent of the monthly compensation received by such member as salary in such fire or police department at the time of his retirement. (Act No. 51-774)

**"Section 16.** (a) In the case of the death of a person eligible for retirement, an allowance shall be paid to the surviving spouse in an amount that would have been

payable if the person has retired immediately prior to his death and elected Option 2, as set forth in Section 28.

"(b) In the case of the death of a person not eligible for retirement, after completion of twenty (20) years of creditable service, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person had retired for disability immediately prior to his death and had elected Option 2 as set forth in Section 28 or if the surviving spouse desires, he or she may choose to receive the accumulated contributions of the person in lieu of the allowance provided under Option 2 plus an amount equal to the accumulated contributions of the person not to exceed five thousand dollars (\$5,000.00).

"(c) Upon the death of a person on account of whom no survivor allowance is payable under Subdivision (1) or (2) of this Section, the accumulated contributions of the person plus an amount equal to the accumulated contributions, not to exceed five thousand dollars (\$5,000.00) shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the Board of Pensions.

"(1) The provisions of Section 16 (a), (b) and (c) are not retroactive and shall not affect the pension now being received by the widow or surviving children of any member of the police or fire department who died prior to the effective date of this act.

"(d) Whenever the employment of a member of the police or fire departments of the City of Mobile shall be terminated for any reason, except death, before eligibility for pension benefits hereunder has been established, the contribution of such employee shall be refunded in a lump sum without interest to the employee. Prior service of an employee re-hired after termination and refund as herein provided shall not count toward future retirement unless said employee, within twelve (12) months from the date of his re-employment, pays into the Fund the amount of such refund plus interest at the rate of ten percent (10%) per annum from the date of said refund, in which event said employee shall be given credit for such prior service.

"(e) Whenever a retired or disabled member who retired between January 1, 1963, and October 1, 1964, shall die who is receiving pension or disabled payments and when such retired or disabled employee leaves a widow, such widow shall receive one hundred dollars (\$100.00) per month. The widow may receive such payments for the term of her life or until her remarriage." (Act No. 91-701)

Editor's note - Previous versions of Section 16 are listed below, along with Section 27, Act No. 67-180, which correlates to Section 16, Act No. 91-701:

**"Section 16.** (a) In the case of the death of a person eligible for retirement, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person has retired immediately prior to his death and elected Option 2, as set forth in Section 28.

"(b) In the case of the death of a person not eligible for retirement, after completion of twenty (20) years of creditable service, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person had retired for disability immediately prior to his death and had elected Option 2 as set forth in Section 28 or if the surviving spouse desires, he or she may choose to receive the accumulated contributions of the person in lieu of the allowance provided under Option 2 plus an amount equal to the accumulated contributions of the person not to exceed five thousand dollars (\$5,000.00).

"(c) Upon the death of a person on account of whom no survivor allowance is payable under Subdivision (1) or (2) of this Section, the accumulated contributions of the person plus an amount equal to the accumulated contributions, not to exceed five thousand dollars (\$5,000.00) shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the Board of Pensions.

"(1) The provisions of Section 16 (a), (b) and (c) are not retroactive and shall not affect the pension now being received by the widow or surviving children of any member of the police or fire department who died prior to the effective date of this act.

"(d) Whenever the employment of a member of the police or fire departments of the City of Mobile shall be terminated for any reason, except death, before eligibility for pension benefits hereunder has been established, the contribution of such employee shall be refunded in a lump sum without interest to the employee. Prior service of an employee re-hired after termination and refund as herein provided shall not count toward future retirement unless said employee, within twelve (12) months from the date of his re-employment, pays into the Fund the amount of such refund plus interest at the rate of ten percent (10%) per annum from the date of said refund, in which event said employee shall be given credit for such prior service.

"(e) Whenever a retired or disabled member who retired between January 1, 1963, and October 1, 1964, shall die who is receiving pension or disabled payments and when such retired or disabled employee leaves a widow, such widow shall receive one hundred dollars (\$100.00 per month. The widow may receive such payments for the term of her life or until her remarriage." (Act No. 90-198)

**"Section 16.** (a) In the case of the death of a person eligible for retirement, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person has retired immediately prior to his death and elected Option 2, as set forth in Section 28.

"(b) In the case of the death of a person not eligible for retirement, after completion of twenty (20) years of creditable service, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person had retired for disability immediately prior to his death and had elected Option 2 as set forth in Section 28 or if the surviving spouse desires, he or she may choose to receive the accumulated contributions of the person in lieu of the allowance provided under Option 2 plus an amount equal to the accumulated contributions of the person not to exceed five thousand dollars (\$5,000.00).

"(c) Upon the death of a person on account of whom no survivor allowance is payable under Subdivision (1) or (2) of this Section, the accumulated contributions of the person plus an amount equal to the accumulated contributions, not to exceed five thousand dollars (\$5,000.00) shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the Board of Pensions.

"(1) The provisions of Section 16 (a), (b) and (c) are not retroactive and shall not affect the pension now being received by the widow or surviving children of any member of the police or fire department who died prior to the effective date of this act.

"(d) Whenever the employment of a member of the police or fire department of the City shall be terminated for any reason, except death, before eligibility for pension benefits hereunder has been established, the contribution of such employee to the fund shall be refunded in a lump sum without interest to the employee. Prior service of an employee rehired after termination and refund as herein provided shall not count toward future retirement unless said employee pays into said Policemen's and Fire Fighters' Pension Fund the amount of such refund plus interest at the rate of eight percent (8%) per annum from the date of said refund, in which event said employee shall be given credit for such prior service.

"(e) Whenever a retired or disabled member who retired between January 1, 1963, and October 1, 1964, shall die who is receiving pension or disabled payments and when such retired or disabled employee leaves a widow, such widow shall receive one hundred dollars (\$100.00 per month. The widow may receive such payments for the term of her life or until her remarriage. (Act No. 86-475)

**"Section 16.** (a) In the case of the death of a person eligible for retirement, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person has retired immediately prior to his death and elected Option 2, as set forth in Section 28.

"(b) In the case of the death of a person not eligible for retirement, after completion of twenty (20) years of creditable service, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person had retired for disability immediately prior to his death and had elected Option 2 as set forth in Section 28 or if the surviving spouse desires, he or she may choose to receive the accumulated contributions of the person in lieu of the allowance provided under Option 2 plus an amount equal to the accumulated contributions of the person not to exceed five thousand dollars (\$5,000.00).

"(c) Upon the death of a person on account of whom no survivor allowance is payable under Subdivision (1) or (2) of this Section, the accumulated contributions of the person plus an amount equal to

the accumulated contributions, not to exceed five thousand dollars (\$5,000.00) shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the Board of Pensions.

"(1) The provisions of Section 16 (a), (b) and (c) are not retroactive and shall not affect the pension now being received by the widow or surviving children of any member of the police or fire department who died prior to the effective date of this act.

"(d) Whenever the employment of a member of the police or fire department of the City shall be terminated for any reason, except death, before eligibility for pension benefits hereunder has been established, the contribution of such employee to the fund shall be refunded in lump sum without interest to the employee. Prior service of an employee rehired after termination and refund as herein provided shall not count toward future retirement unless said employee pays into said Policemen's and Fire Fighters' Pension Fund the amount of such refund plus interest at the rate of eight percent (8%) per annum from the date of said refund, in which event said employee shall be given credit for such prior service.

"(e) Whenever a retired or disabled member who retired between January 1, 1963, and October 1, 1964, shall die who is receiving pension or disabled payments and when such retired or disabled employee leaves a widow, such widow shall receive one hundred dollars (\$100.00 per month. The widow may receive such payments for the term of her life or until her remarriage. (Act No. 85-938)

"Section 16. (a) In the case of the death of a person eligible for retirement, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person has retired immediately prior to his death and elected Option 2, as set forth in Section 28.

"(b) In the case of the death of a person not eligible for retirement, after completion of twenty (20) years of creditable service, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person had retired for disability immediately prior to his death and had elected Option 2 as set forth in Section 28 or if the surviving spouse desires, he or she may choose to receive the accumulated contributions of the person in lieu of the allowance provided under Option 2 plus an amount equal to the accumulated contributions of the person not to exceed five thousand dollars (\$5,000.00).

"(c) Upon the death of a person on account of whom no survivor allowance is payable under Subdivision (1) or (2) of this Section, the accumulated contributions of the person plus an amount equal to the accumulated contributions, not to exceed five thousand dollars (\$5,000.00) shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the Board of Pensions.

"(1) The provisions of Section 16 (a), (b) and (c) are not retroactive and shall not affect the pension now being received by the widow or surviving children of any member of the police or fire department who died prior to the effective date of this act.

"(d) Whenever the employment of a member of the police or fire department of the City shall be terminated for any reason, except death, before eligibility for pension benefits hereunder has been established, the contribution of such employee to the fund shall be refunded in lump sum without interest to the employee. Prior service of an employee rehired after termination and refund as herein provided shall not count toward future retirement unless said employee pays into said Policemen's and Fire Fighters' Pension Fund the amount of such refund plus interest at the rate of eight percent (8%) per annum from the date of said refund, in which event said employee shall be given credit for such prior service. (Act No. 85-312)

"Section 16. (a) In the case of the death of a person eligible for retirement, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person had retired immediately prior to his death and elected Option 2, as set forth in Section 28.

"Section 16. (b) In the case of the death of a person not eligible for retirement, after completion of twenty-five (25) years of creditable service, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person had retired for disability immediately prior to his death and had elected Option 2 as set forth in Section 28 or if the surviving spouse desires, he or she may choose to receive the accumulated contributions of the person in lieu of the allowance provided under Option 2 plus an amount equal to the accumulated contributions of the person not to exceed five thousand dollars (\$5,000.00);

Section 16. "(c) Upon the death of a person on account of whom no survivor allowance is payable under Subdivisions (1) or (2) of this Section, the accumulated contributions of the person plus an amount equal to the accumulated contributions, not to exceed five thousand dollars (\$5,000.00) shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the Board of Pensions.

"Section 16. (c) (1) The provisions of Section 16 (a), (b), and (c) are not retroactive and shall not affect the pension now being received by the widow or surviving children of any member of the Police or Fire Department who died prior to the effective date of this Act.

"Section 16. (d) Whenever the employment of a member of the Police or Fire Department of the City of Mobile shall be terminated for any reason, except death, before eligibility for pension benefits hereunder has been established, the contribution of such employee to the fund shall be refunded in a lump sum without interest to the employee. Prior service of employee rehired after termination and refund as herein provided shall not count toward future retirement unless said employee pays into said Policemens and Firefighters Pension Fund the amount of such refund plus interest at the rate of eight percent (8%) per annum from the date of said refund, in which event said employee shall be given credit for such prior service. (Act No. 80-339)

"Section 27. This Act shall not have retroactive application. The provisions of Section 16 of this Act shall not apply to the widow or the surviving children of a member of the police or fire department who died or retired before October 1, 1964, but this provision shall not apply to widows now receiving a pension under this or any previous Act, and said widow shall continue to receive said pension." (Act No. 67-180)

"Section 16. (a) Whenever an active or retired member of such police or fire department shall die, there shall be appropriated and paid from the Fund the sum of one hundred dollars for funeral and burial expenses of such deceased member, which sum shall be paid out upon order of the Pension Board to the person or persons designated by the Chief of Police, if decedent was a member of the Police Department, or the Chief of the Fire Department, if decedent was a member of the Fire Department.

"(b) (1) Should an active member of the police or fire department, who has fifteen years or more of service and/or is otherwise eligible for retirement either because of disability or length of service, but who has not been retired, die leaving a widow, such widow shall be entitled to receive a monthly pension payment from the Fund in an amount equal to fifty percent of the monthly pension such deceased member would have been entitled to on the date of his death had he been retired but not more than one hundred dollars (\$100) per month, for the remainder of her life or until she marry again; provided, she establishes her eligibility thereof by submitting (i) proof of a bona fide marriage to the deceased, consummated not less than one year prior to the date of his death, if the deceased was an active employee on such date, or one year prior to transfer to the pension roll if the deceased was a retired or disabled employee; (ii) proof that the claimant and the deceased were living together as man and wife on the date of the death of the decedent and had been so living for at least one year prior to the date of his death; (iii) annual proof of continued eligibility as may be required by the Board for continued pension.

"(2) Should a retired or disabled member who is receiving pension or disability payment under this Act die, leaving a widow, such widow shall be entitled to receive a monthly pension payment from the Fund in an amount equal to fifty percent of the monthly pension payment which such deceased member was entitled to on the date of his death, but not more than one hundred dollars (\$100) per month for the remainder of her life or until she marries again; provided she establishes her eligibility therefor in the manner prescribed in paragraph (1) above.

"(3) Should any member of the police or fire department, regardless of the length of his service, die as the result of injuries sustained in the line and scope of his duties, leaving a widow who is not entitled to receive pension payments under paragraphs (1) or (2) above, then such widow shall be entitled to receive a monthly pension payment from the Fund of one hundred dollars (\$100), for the remainder of her life or until she marries again; provided, she establishes her eligibility therefor by submitting (i) proof of a bona fide marriage to the deceased; (ii) proof that the claimant and the deceased were living together as man and wife on the date of the death of the decedent; (iii) annual proof of continued eligibility as may be required by the Board for continued pension.

"(c) Should a member or retired member of the police or fire department of the City die, leaving no widow but leaving an unmarried child or children under the age of eighteen on the date of such member's death, under such circumstances that had he left a widow, she would have been entitled to monthly pension payments under subsection (b) hereof, then such child or, if there be more than one child, such children, jointly shall be entitled to receive a monthly pension payment equal to the widow's benefit prescribed in said subsection (b) hereof, which payments shall be made through a guardian, until the youngest child reaches the age of eighteen or is married.

"(d) Whenever the employment of a member of the police or fire department of the City shall be terminated by death or for any other reason before eligibility for pension benefits hereunder has been established, the contribution of such employee to the Fund shall be refunded in lump sum without interest to the employee, his widow or children, a named beneficiary, or to his estate, as the case may be. Prior service of an employee rehired after termination and refund as herein provided shall not count toward future retirement." (Act No. 66-359)

**Section 16.** (a) Whenever an active or retired member of such police or fire department shall die, there shall be appropriated and paid from the Fund the sum of one hundred dollars for funeral and burial expenses of such deceased member, which sum shall be used for funeral and burial expenses and paid out



upon order of the Pension Board to the person or persons designated by the Chief of Police, if decedent was a member of the Police Department, or the Chief of the Fire Department, if decedent was a member of the Fire Department.

(b) Whenever a member of the police or fire department of the city shall die while an active employee thereof with fifteen years or more service or otherwise eligible for a pension, or whenever a retired or disabled member shall die who is receiving pension or disability payments as herein provided, or whenever any member of the police or fire department, regardless of his or her length of service, shall die as a result of injuries sustained in the line of duty, and in either event if such deceased employee shall leave a widow, such widow shall receive fifty percent of the member's pension entitlement as determined on the date of death of the deceased, but not to exceed one hundred dollars (\$100.00) per month. The widow may receive such payments for the term of her life or until her remarriage, by establishing her eligibility (1) by proof of a bona fide marriage to deceased consummated not less than one year prior to the date of death, if deceased was an active employee, or one year prior to transfer to the pension roll if deceased was a retired or disabled employee. For the purpose of this Act, proof of a common law marriage shall not be considered a bona fide marriage; (2) upon proof that the claimant and the deceased were living together as man and wife on the date of the death of deceased and had been so living for at least one year prior to the death of his death; and (3) upon supplying such annual proof of continued eligibility as may be required by the Board for continued pension.

(c) Whenever a member of the Police or Fire Departments of the City shall die while an active employee thereof with fifteen years or more service or otherwise eligible for a pension, or whenever a retired or disabled member shall die who is receiving pension or disability payments as herein provided, or whenever any member of the Police or Fire Department, regardless of his or length of service, shall die as a result of injuries sustained in the line of duty, and in either event if such deceased employee shall leave no widow, but shall leave an unmarried child or children under the age of eighteen on the date of his death, such child or children shall receive the widow's benefit as herein provided not to exceed one hundred dollars (\$100.00) per month, which payments shall be made through a guardian until the youngest child reaches the age of eighteen, or is married.

(d) Whenever the employment of a member of the Police or Fire Department of the City shall be terminated by death or for any other reason before eligibility for benefits has been established, the contribution of such employee to the Fund shall be refunded in lump sum without interest to the employee, his widow or children, a named beneficiary, or to his estate, as the case may be. Prior service of an employee rehired after termination and refund as herein provided shall not count toward future retirement. (Act No. 64-243)

**Section 16:** That whenever an active or retired member of such police or fire department shall die while in the employ of the city as a policeman or fireman, there shall be appropriated and paid from said funds a sum not less than seventy five, nor more than one hundred dollars, for funeral and burial expenses of such deceased member, which sum shall be used for such funeral and burial expenses, and paid out upon order and direction of the Chief of Police, if the person dying is a member of the police department, or the Chief of the Fire Department, if the person dying is a member of the fire department. (Act No. 51-774)

**Section 17.** In all matters involving the disability or sickness of members of the Police or Fire Department, the Board of Pensions may cause such disabled or sick member to be examined by the City Physician, and such other reputable physicians or surgeons as it may select, who shall report to the Board in writing the result of such examination or examinations and it is hereby made the duty of the City Physician, when requested by the Board to make such examination and to report his findings as herein provided. Any member of the Police or Fire Department who refuses to allow such examinations as may be considered necessary by the Board shall, during the continuance of such refusal, be debarred from receiving any benefits whatever under this Act. (Act No. 64-243)

Editor's note - Previous versions of Section 17 are listed below, plus Section 21 of Act No. 51-774, which correlates to Section 17:

**Section 17.** In all matters involving the disability or sickness of members of such police or fire department, the Board of Commissioners, or other governing body of the respective cities, shall have such disabled members and if it sees fit, such sick member, examined by the city physician, and such other

reputable physicians or surgeons as it may select, who shall report to such authority the result of such examination or examinations in writing, and it is hereby made the duty of such city physician, when requested so to do by such authority, to make such examination and to report thereon as aforesaid. And any member of such police or fire department who refuses to allow such examinations as may be by such physicians, or the authority referred to in this section, deemed necessary, shall, during the continuance of such refusal, be debarred from receiving any benefits whatever under this Act. (Act No. 51-774)

**Section 21:** That in all matters involving the disability or sickness of such member of the police or fire department, the said board shall have such disabled member, and if it sees fit, such sick member, examined by the city physician, or such other reputable physician or surgeon as may be selected by it, who shall report in writing to such board the result of such examination: and it is hereby made the duty of such city physician, when requested so to do by the said board, to make such examinations and to report thereon as aforesaid. (Act No. 51-774)

**Section 18.** Members of the Police and Fire Departments of the City of Mobile who shall receive the benefits of this Act shall continue to receive such benefits only during the period of their eligibility thereof, and shall submit annually and at such other times as ordered by the Board such statements or other evidence of eligibility as may be required by the Board. (Act No. 64-243)

Editor's note - Previous versions of Section 18 are listed below:

**Section 18:** The provisions of this Act shall apply and be effective, and members of the police and fire departments who shall receive the benefits of this Act, shall receive such benefits, only so long as such members receiving or entitled to same shall be bona fide residents of the respective counties in which they resided at the time they were placed on the pension list, unless the Board of Commissioners, or other governing body of the respective cities shall grant permission for the person entitled to said pension to move away from the said county. (Act No. 51-774)

**Section 19.** Should the Pension and Relief Fund at any time be insufficient or inadequate to pay pensions to those properly entitled to receive same, the person or persons so entitled to payments shall not file suit for payment thereof but the Board of Pensions shall have absolute discretion as to what portion of the pension shall be paid, and when there are several persons entitled to payments, and the funds are insufficient to pay them in full, the Board of Pensions shall prorate the available amount to the respective claimants. However, at no time shall the payments exceed the limits fixed in this Act. (Act No. 64-243)

Editor's note - Previous versions of Section 19 are listed below, along with Section 20, Act No. 51-774, which correlates to Section 19, Act 64-243

**Section 19:** While the creation of the fund has been specifically provided for in this Act, nothing herein shall in anywise be construed or meant to prevent gifts, donations, legacies, or otherwise, to be made to such funds, and trustees for the purpose of receiving same, and for the purpose of holding any property or performing any duty in connection with the pension and relief funds herein provided for and established may, at any time, be named, designated and appointed by the governing body of the respective cities, and under such restrictions, rules and regulations as may be provided for by such governing body, provided no salary shall be paid to any person acting as such trustee.

**Section 20:** Should the pension and relief funds at any time be insufficient or inadequate to pay pensions to those properly entitled to receive same, the person or persons so entitled thereto shall not file any suit against the City, but the Board of Commissioners or other governing authority thereof, shall have absolute discretion as to what portion of the pension shall be paid, and when there are several persons entitled to pensions, and the funds are insufficient to pay them in full, the Board of Commissioners or other governing body thereof, may prorate they have in such funds to the respective claimants. However, at no time shall the payments exceed the limits fixed in this Act. (Act No. 51-774)

**Section 20.** There shall be kept by the Secretary of the Board of Pensions a book in which shall be maintained a list of retired policemen and fire fighters. Such book shall

also give a full and complete history and record of the action of the said Board in retiring any and all persons under this Act and shall show the names, date of entering service in such police or fire departments, periods of employment, date of retirement and the reason for such retirement and such other information as the Board may require, including written requests from members desiring retirement. (Act No. 64-243)

Editor's note - Previous version of Section 20 correlated to Section 19, Act No. 64-243; however, Section 22, Act No. 51-774, which correlates to Section 20, Act No. 64-243, and is listed below:

**Section 22.** That there shall be kept by the secretary of the board of city commissioners or other governing body of the respective cities, a book to be known as a list of retired policemen and firemen. Such book shall also give a full and complete history and record of the action of the said board in retiring any and all persons under this act showing the names, date of entering service in such police or fire departments, periods of employment, date of retirement and the reason for such retirement, if any. (Act No. 51-774)

**Section 21.** It shall be the duty of the City Attorney of Mobile to give advice to the Board of Pensions in all matters pertaining to the duties of the Board, and the management of the Pension and Relief Fund, whenever requested to do so, and shall represent and defend the Board as its attorney in all suits and actions at law or in equity that may be brought against it or the City of Mobile in connection with its duties, and during all suits and actions in its behalf that may be required or determined upon by the Board. (Act No. 64-243)

Editor's note - Previous version of Section 21 correlates to Section 17, Act No. 64-243; however, Section 23, Act No. 51-774, correlates to Section 21, Act No. 64-243, and is listed below:

**Section 23.** That it shall be the duty of the City Attorney of the respective cities to give advice to the said board of commissioners or other governing body of the respective cities, and to the members of the Pension Board, if one is created, in all matters pertaining to the duties of the said board, and the management of such fund, whenever requested to do so, and he shall represent and defend the said board as its attorney in all suits and actions at law or in equity that may be brought against it, and during all suits and actions in its behalf that may be required or determined upon by such board; and the said board shall have the authority to employ such other counsel as it may see fit, in such matters and to pay out of such fund reasonable attorney's fees to such counsel as it may employ as aforesaid. (Act No. 51-774)

**Section 22.** Editor's note - Section 22 of Act No. 64-243 was repealed in Acts No. 85-312, 85-938, and 86-475.

Editor's note -- Previous versions of Section 22 are listed below, along with Section 26, Act No. 51-774, which correlates to Section 22, Act No. 64-243:

**Section 22.** Any member of the Police or Fire Department of the City of Mobile may elect at any time not to come within the provisions of this Act, and should he so elect, no part of his salary shall be deducted for the Pension and Relief Fund. His election must be in writing, signed by him, and filed with the Board of Pensions. Thereafter, he shall not be allowed to come within the provisions or be entitled to the benefits of this Act, unless he first makes application to the Board of Pensions, and such Board may use its discretion in the premises, but said persons shall not be credited for services in the Police or Fire Departments for the time during which he was not bound by the provisions of this Act.

"Any member may withdraw from participation in the Pensions and Relief System at any time upon filing with the Board of Pensions on a form prescribed by such Board a notice of his election to withdraw from the System. Any such member who elects to withdraw shall be entitled to have his contributions to the Fund paid to him upon demand at the time of his withdrawal." (Act No. 85-230)

**Section 22.** Any member of the Police or Fire Department of the City of Mobile may elect at any time not to come within the provisions of this Act, and should he so elect, no part of his salary shall be deducted for the Pension and Relief Fund. His election must be in writing, signed by him, and filed with the Board of Pensions. Thereafter, he shall not be allowed to come within the provisions or be entitled to the benefits of this Act, unless he first makes application to the Board of Pensions, and such Board may

use its discretion in the premises, but said persons shall not be credited for services in the Police or Fire Departments for the time during which he was not bound by the provisions of this Act. (Act No. 64-243)

**Section 26.** Any member of the police or fire department of the respective cities governed by this Act, may elect at any time not to come within the provisions of this Act, and should he so elect not to come within the provisions hereof, no part of his salary shall be deducted for the pension and relief fund. His election must be in writing, signed by him, and filed with the board of commissioners or other governing body of the respective cities, or the board of pensions, if one is in existence. Thereafter, he shall not be allowed to come within the provisions or be entitled to the benefits of this Act, unless he first makes application to the body in charge of the pension fund, or board of commissioners if no pension board is functioning, and such board may use its discretion in the premises, but said persons shall not be credited for services in the police or fire departments for the time during which he was not bound by the provisions of this Act. (Act No. 51-774)

**Section 23.** Within ten (10) days after any final decision of the board of trustees, any contributing member including the governing body of such city, feeling aggrieved at the decision of the board of trustees may appeal from any such decision to the circuit court of the county in which such city is located and such appeal shall be heard by a judge sitting without a jury. Upon the filing of any such appeal, notice thereof shall be served upon any member of the board of trustees by the appellant. Such appeal shall be heard by the court at the earliest possible date, and it shall not be necessary on any such appeal to enter exceptions to the rulings of the board of trustees and no bond shall be required for such an appeal and such an appeal shall be effected by filing a notice and request therefor by the appellant with the clerk of said court. An appeal may be taken from any decision of such court to the court of appeals or the Supreme Court as now provided by law. (Act No. 86-475)

Editor's note - Previous versions of Section 23 are listed below, along with Section 27, Act No. 51-774, which correlates to Section 23, Act No. 86-475:

**Section 23.** Within ten (10) days after any final decision of the board of trustees, any contributing member including the governing body of such city, feeling aggrieved at the decision of the board of trustees may appeal from any such decision to the circuit court of the county in which such city is located and such appeal shall be heard by a judge sitting without a jury. Upon the filing of any such appeal, notice thereof shall be served upon any member of the board of trustees by the appellant. Such appeal shall be heard by the court at the earliest possible date, and it shall not be necessary on any such appeal to enter exceptions to the rulings of the board of trustees and no bond shall be required for such an appeal and such an appeal shall be effected by filing a notice and request therefor by the appellant with the clerk of said court. An appeal may be taken from any decision of such court to the court of appeals or the Supreme Court as now provided by law. (Act No. 85-938)

**Section 23.** Within ten (10) days after any final decision of the board of trustees, any contributing member including the governing body of such city, feeling aggrieved at the decision of the board of trustees may appeal from any such decision to the circuit court of the county in which such city is located and such appeal shall be heard by a judge sitting without a jury. Upon the filing of any such appeal, notice thereof shall be served upon any member of the board of trustees by the appellant. Such appeal shall be heard by the court at the earliest possible date, and it shall not be necessary on any such appeal to enter exceptions to the rulings of the board of trustees and no bond shall be required for such an appeal and such an appeal shall be effected by filing a notice and request therefor by the appellant with the clerk of said court. An appeal may be taken from any decision of such court to the court of appeals or the Supreme Court as now provided by law. (Act No. 85-312)

**Section 23.** In case of any dispute arising out of this Act or any of its provisions or on any decision relating to application for benefits, the decision of the Board of Pensions shall be final. In no event shall any suit be filed against the Board of Pensions, any of its members or the Board of Commissioners or other governing authority of the City, for the recovery of any pension or to enforce any of the provisions of this Act. However, should any suit be brought on behalf of the City or the Board of Pensions, it shall be brought in the name of the City of Mobile, and not in the name of the Board of Pensions. (Act No. 64-243)

**Section 27:** In case of any dispute arising out of this Act or over the provisions hereof, or the interpretation of any of the provisions of this act, the decision of the board of commissioners or other

governing body of the respective cities shall be final. Wherever a board of pensions has been created, an appeal may be taken from the decision of the board of pensions to the board of commissioners or other governing body of the respective cities, but no further appeal shall be taken, and in no event shall any suit be filed against the board of pensions, any of its members, the board of commissioners governing authorities of any city, or any city for the recovery of any pension or to enforce any of the provisions of this Act, and any person who files such suit shall thereby forfeit all benefits to which he may be entitled under the provisions hereof. (Act No. 51-774)

**Section 24.** All powers, duties and responsibilities related to the establishment and administration of a pension and relief system for policemen and firemen for the City of Mobile which have heretofore been exercised by the Board of Policemen's and Fire Fighters' Pensions of the City of Mobile for the purpose of administering such system, created under authority of Act 243, H. 278, of the First Special Session of 1964 (Acts 1964, p. 326), as amended, shall be vested in the Board of Pensions herein created and established; all funds, books, records, supplies and equipment and all other assets of any kind or nature created and held by the City of Mobile and said board and used in the administration of such former pension and relief system shall as soon as is practicable, but no later than six (6) months from the date of the adoption of this act, be transferred to and administered by the Board of Pensions herein created. It shall be the duty of the City of Mobile and the board administering said Fund at the time of the adoption of this act to cooperate with the board created herein during said transition. All accrued rights and liabilities under any former pension and relief system for policemen and firemen of the City shall be retained and preserved and all obligations and duties under such former system shall be fully performed in the same manner and to the same extent by the Board of Pensions created by this act as they would have been performed by any authority replaced by the Board of Pensions. (Act No. 86-475)

Editor's note - Previous versions of Section 24 are listed below, along with Section 25, Act. No. 51-774, which correlates to Section 24, Act No. 86-475:

**Section 24.** All powers, duties and responsibilities related to the establishment and administration of a pension and relief system for policemen and firemen for the City of Mobile which have heretofore been exercised by the Board of Policemen's and Fire Fighters' Pensions of the City of Mobile for the purpose of administering such system, created under authority of Act 243, H. 278, of the First Special Session of 1964 (Acts 1964, p. 326), as amended, shall be vested in the Board of Pensions herein created and established; all funds, books, records, supplies and equipment and all other assets of any kind or nature created and held by the City of Mobile and said board and used in the administration of such former pension and relief system shall as soon as is practicable, but no later than six (6) months from the date of the adoption of this act, be transferred to and administered by the Board of Pensions herein created. It shall be the duty of the City of Mobile and the board administering said Fund at the time of the adoption of this act to cooperate with the board created herein during said transition. All accrued rights and liabilities under any former pension and relief system for policemen and firemen of the City shall be retained and preserved and all obligations and duties under such former system shall be fully performed in the same manner and to the same extent by the Board of Pensions created by this act as they would have been performed by any authority replaced by the Board of Pensions. (Act No. 85-938)

**Section 24.** All powers, duties and responsibilities related to the establishment and administration of a pension and relief system for policemen and firemen for the City of Mobile which have heretofore been exercised by the Board of Policemen's and Fire Fighters' Pensions of the City of Mobile for the purpose of administering such system, created under authority of Act 243, H. 278, of the First Special Session of 1964 (Acts 1964, p. 326), as amended, shall be vested in the Board of Pensions herein created and established; all funds, books, records, supplies and equipment and all other assets of any kind or nature created and held by the City of Mobile and said board and used in the administration of such former pension and relief system shall as soon as is practicable, but no later than six (6) months from the date of the adoption of this act, be transferred to and administered by the Board of Pensions herein created. It shall be the duty of the City of Mobile and the board administering said Fund at the time of the adoption of this act to cooperate with the board created herein during said transition. All accrued rights and

liabilities under any former pension and relief system for policemen and firemen of the City shall be retained and preserved and all obligations and duties under such former system shall be fully performed in the same manner and to the same extent by the Board of Pensions created by this act as they would have been performed by any authority replaced by the Board of Pensions. (Act No. 85-312)

**Section 24.** All powers, duties and responsibilities related to the establishment and administration of a pension and relief system for policemen and firemen for the City of Mobile which have heretofore been exercised by the Board of Commissioners or any other board or agency of the City of Mobile for the purpose of administering such system, created under authority of Act No. 774, S. 626, Regular Session 1951 (Acts 1951, p. 1350), shall be vested in the Board of Pensions herein created and established; all funds, books, records, supplies and equipment and all other assets of any kind or nature created and used in the administration of such former pension and relief system shall be transferred to and administered by the Board of Pensions herein created; and all accrued rights and liabilities under any former pension and relief system for policemen and firemen of the City shall be retained and preserved and all obligations and duties under such former system shall be fully performed in the same manner and to the same extent by the Board of Pensions created by this Act as they would have been performed by any authority replaced by the board of pensions. (Act No. 64-243)

**Section 25.** The board of commissioners or other governing body of the respective cities may create a board to carry out the provisions of this Act, which board shall be known as "The Board of Pensions" and shall consist of five reputable persons who shall be bona fide residents of the same city as are the members of the board of Commissioners, or other governing body appointing them. The members of such board of pensions shall be over the age of twenty one years, and shall hold office for six years, but may be subject to removal for good cause, at any time, by the body appointing them. Whenever a board of pensions is created under the provisions of this act said Board shall have the same ministerial power as herein conferred on the board of commissioners or other governing bodies of the respective cities so appointing such board, and the duties of the persons herein named shall be the same, whether or not a board of pensions is created. However, should any suit be brought on behalf of any city under the provisions of this act, it shall be brought in the name of the city so concerned, and not in the name of the board of pensions. (Act No. 51-774)

**Section 25.** All laws and parts of laws and specifically that part of Act No. 774, S. 626, Regular Session 1951 (Acts 1951, p. 1350) in conflict with this Act are repealed. (Act No. 64-243)

**Section 26.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains. (Act No. 64-243)

Editor's note - Previous version of Section 26 correlates to Section 22 and is printed below that section; however, Section 28, Act No. 51-774, correlates to Section 26, Act No. 64-243, and is printed below:

**Section 28:** That if any section or provision of this Act shall be held or declared to be unconstitutional or void it shall not affect or destroy the validity or constitutionality of any other section or provision of this Act which is not of itself void or unconstitutional. (Act No. 51-774)

**"Section 27.** This Act shall not have retroactive application. The provisions of Section 16 of this Act shall not apply to the widow or the surviving children of a member of the police or fire department who died or retired before October 1, 1964, but this provision shall not apply to widows now receiving a pension under this or any previous Act, and said widow shall continue to receive said pension." (Act No. 67-180)

Editor's note - Previous version of Section 27 is listed below:

**Section 27.** This Act shall take effect October 1, 1964 and shall not have retroactive application. (Act No. 64-243)

**"Section 28.** (a) Any person retiring on or after the effective date of this act, with the provision that the election of an option shall be effective on the effective date of retirement, may elect prior to retirement to receive his pension allowance payable throughout life, subject to the following provisions:

"Option 1. A full pension allowance for the remainder of the member's life and upon such member's death there shall be no pension or other benefit remaining for the surviving spouse;

"Option 2. A pension allowance reduced by ten percent (10%) from the amount of a full pension allowance and upon such member's death the surviving spouse shall receive a pension allowance for life in an amount equal to one-half of the said reduced pension allowance for such member. (Act No. 86-475)

Editor's note - Previous versions of Section 28 are listed below:

**"Section 28.** (a) Any person retiring on or after the effective date of this act, with the provision that the election of an option shall be effective on the effective date of retirement, may elect prior to retirement to receive his pension allowance payable throughout life, subject to the following provisions:

"Option 1. A full pension allowance for the remainder of the member's life and upon such member's death there shall be no pension or other benefit remaining for the surviving spouse;

"Option 2. A pension allowance reduced by ten percent (10%) from the amount of a full pension allowance and upon such member's death the surviving spouse shall receive a pension allowance for life in an amount equal to one-half of the said reduced pension allowance for such member. (Act No. 85-938)

**"Section 28.** (a) Any person retiring on or after the effective date of this act, with the provision that the election of an option shall be effective on the effective date of retirement, may elect prior to retirement to receive his pension allowance payable throughout life, subject to the following provisions:

"Option 1. A full pension allowance for the remainder of the member's life and upon such member's death there shall be no pension or other benefit remaining for the surviving spouse;

"Option 2. A pension allowance reduced by ten percent (10%) from the amount of a full pension allowance and upon such member's death the surviving spouse shall receive a pension allowance for life in an amount equal to one-half of the said reduced pension allowance for such member. (Act No. 85-312)

**"Section 28.** Any person retiring on or after the effective date of this Act, with the provision that the election of an option shall be effective on the effective date of retirement, may elect prior to retirement to receive, in lieu of his retirement allowance payable throughout life, the actuarial equivalent, at that time, of his retirement allowance in a reduced retirement allowance payable throughout life with the provisions that:

Option 1--Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Pensions at the time of his retirement;

Option 2--Upon his death, one half of his reduced allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Pensions at the time of his retirement." (Act No. 78-887)

**"Section 29.** The board is hereby authorized from time to time to grant, to members of said police or fire department up to a \$50.00 per month cost-of-living increase in pensions being paid to said retirees under such system with such increases to be paid out of any investment earnings in excess of those needed to adequately fund the system. Said excess earnings to be held for said purpose and said earnings shall not be used for any other purpose.

"(a) This provision shall apply to all persons retiring after the date of this act and to all other pensioners retired since October 1, 1977, who shall, within sixty (60) days of the date of the passage of this act, indicate to the board in writing their desire to participate in said cost-of-living increases provided by this section or participate in a

cost-of-living increase plan in effect prior to the effective date of this act. Said election to participate shall make pensioners making said election ineligible to receive cost-of-living increases provided by said pension law prior to the passage of this act. Provided, however, any retiree who retired prior to **October 1, 1964\*** may be granted a permissive raise in an amount up to \$50.00 per month by the city governing body to be paid by the pension fund which shall be reimbursed monthly from the general fund of the City of Mobile.

"(b) Persons who shall have retired but who have not yet become eligible to draw benefits shall have cost-of-living increases granted during said period of ineligibility credited to the amount said pensioner is entitled to receive on the date said pensioner becomes eligible for payment of benefits hereunder." (Act No. 86-475)

\* Editor's notes - The date of '**October 1, 1964**' in paragraph (a) should read 'September 2, 1964', the date of the enactment of the 1964 Act.

Previous versions of Section 29 are listed below, along with Section 1, Act No. 85-231, which correlates to Section 29, Act No. 86-475:

"**Section 29.** The board is hereby authorized from time to time to grant, to members of said police or fire department up to a \$50.00 per month cost-of-living increase in pensions being paid to said retirees under such system with such increases to be paid out of any investment earnings in excess of those needed to adequately fund the system. Said excess earnings to be held for said purpose and said earnings shall not be used for any other purpose.

"(a) This provision shall apply to all persons retiring after the date of this act and to all other pensioners retired since October 1, 1977, who shall, within sixty (60) days of the date of the passage of this act indicate to the board in writing their desire to participate in said cost-of-living increases provided by this section or participate in a cost of living increase plan in effect prior to the effective date of this act. Said election to participate shall make pensioners making said election ineligible to receive cost-of-living increases provided by said pension law prior to the passage of this act. Provided, however, any retiree who retired prior to October 1, 1964, may be granted a permissive raise in an amount up to \$50.00 per month by the city governing body to be paid by the pension fund which shall be reimbursed monthly from the general fund of the City of Mobile.

"(b) Persons who shall have retired but who have not yet become eligible to draw benefits shall have cost-of-living increases granted during said period of ineligibility credited to the amount said pensioner is entitled to receive on the date said pensioner becomes eligible for payment of benefits hereunder." (Act No. 85-938)

"**Section 29.** The board is hereby authorized from time to time to grant, to members of said police or fire department up to a \$50.00 per month cost-of-living increase in pensions being paid to said retirees under such system with such increases to be paid out of any investment earnings in excess of those needed to adequately fund the system. Said excess earnings to be held for said purpose and said earnings shall not be used for any other purpose.

"(a) This provision shall apply to all persons retiring after the date of this act and to all other pensioners retired since October 1, 1977, who shall, within sixty (60) days of the date of the passage of this act indicate to the board in writing their desire to participate in said cost-of-living increases provided by this section or participate in a cost of living increase plan in effect prior to the effective date of this act. Said election to participate shall make pensioners making said election ineligible to receive cost-of-living increases provided by said pension law prior to the passage of this act.

"(b) Persons who shall have retired but who have not yet become eligible to draw benefits shall have cost-of-living increases granted during said period of ineligibility credited to the amount said pensioner is entitled to receive on the date said pensioner becomes eligible for payment of benefits hereunder." (Act No. 85-312)

**Section 1.** Any retired member of the police or fire departments of the City of Mobile who was retired from the service of such department after October 1, 1977, and before May 4, 1978, shall be entitled to an adjustment in his retirement benefits equal to 50% of any blanket pay raise or any increased pay resulting from any salary plan revision, granted to active employees of the same class that said retired member held on the date of his retirement; provided, however, such adjustment shall not be applicable to



the retirement allowance payable to any person designated by said retired member to continue to receive his allowance after such member's death. (Act No. 85-231)

**Section 29.** Any member of said police or fire departments retiring after the effective date of this Act shall be entitled to an adjustment in his retirement benefits equal to 50% of any blanket pay raise or any increased pay resulting from any pay plan revision, granted to active employees of the same class that said retired member held on the date of his retirement; provided, however, that such adjustment shall not be applicable to any person designated by said retired member pursuant to any provision in Section 28 of this Act." (Act No. 78-887)

**Section 29.** This Act shall take effect immediately upon its passage and approval by the Governor. "Provided, however, that this act shall never be construed nor enforced so as to authorize any municipal authorities to grant any extra compensation, fee or allowance to any public officer, servant, employee or agent after service shall have been rendered nor shall it ever be construed or enforced so as to authorize payment to any person of the salary of a deceased officer beyond the date of his death, nor shall it ever be construed or enforced so as to authorize the retirement of any officer on pay or part pay or make any grant to any retiring officer, but that all funds or monies paid out or expended under and by virtue of this Act shall be paid for services to be performed or duties to be discharged in the future by the persons or officers to whom such payments are made. The governing body of any municipality within the provisions of this Act, may, however, assign duties and impose services to be performed by the persons or officers for whose benefit this Act is intended and may make appropriations and payment to such persons or officers in consideration for the performance of such services or the discharge of such duties so imposed upon them. (Act No. 51-774)