

ACT No. 2011 - 698

1 SB309
2 130467-10
3 By Senator Marsh
4 RFD: Finance and Taxation General Fund
5 First Read: 31-MAR-11



1 SB309

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4 ENROLLED, An Act,

5 To amend Sections 36-29-1, 36-29-7, 36-29-8,
6 36-29-10, 36-29-19.4, and 36-29-19.7 of the Code of Alabama
7 1975, relating to the State Employees' Health Insurance Plan;
8 to provide that the employer contribution may include
9 adjustments or surcharges based on a covered spouse's
10 eligibility for other health insurance; to provide that all
11 employees retiring after December 31, 2011, must have at least
12 10 years of creditable coverage in the State Employees' Health
13 Insurance Plan to be eligible for retiree coverage; to provide
14 that postsecondary institutions contribute to the State
15 Employees Insurance Fund for each of its employees retiring
16 after December 31, 2011, covered by the State Employees'
17 Health Insurance Plan; to provide that a two-thirds vote of
18 the State Employees' Insurance Board would no longer be
19 required to change the employee or retiree contribution to the
20 health insurance premium or other out-of-pocket expenses; to
21 provide that employees or retirees who knowingly and willfully
22 submit false or misleading information to the board or engage
23 in fraudulent activity be subject to disqualification from
24 coverage in the State Employees' Health Insurance Plan; to
25 provide that all employees retiring after December 31, 2011,

1 with certain exceptions, be subject to a sliding scale premium
2 calculation based on years of creditable coverage in the State
3 Employees' Health Insurance Plan; to provide that assistance
4 be given to low-income employees and retirees who fall within
5 300 percent of the federal poverty level; to provide that all
6 employees retiring after December 31, 2011, be subject to a
7 sliding scale premium calculation based on the difference
8 between the age of the employee at retirement and the Medicare
9 entitlement age; and to provide that for all employees
10 retiring after December 31, 2011, that the employer
11 contribution for a non-Medicare retiree may not exceed the
12 employer contribution for an active employee.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 36-29-1, 36-29-7, 36-29-8,
15 36-29-10, 36-29-19.4, and 36-29-19.7 of the Code of Alabama
16 1975, are amended to read as follows:

17 "§36-29-1.

18 "When used in this chapter, the following terms
19 shall have the following meanings, respectively, unless the
20 context clearly indicates otherwise:

21 "(1) BOARD. The State Employees' Insurance Board.

22 "(2) CLASS. An employee or retiree shall be included
23 in one of the following classes: (i) active employee single,
24 (ii) active employee family, (iii) non-Medicare retiree
25 single, (iv) non-Medicare retiree family, (v) Medicare retiree

1 single, (vi) Medicare retiree family, (vii) non-Medicare
2 retiree with Medicare eligible dependent(s), or (viii)
3 Medicare retiree with non-Medicare dependent(s).

4 "(3) EMPLOYEE. A person who works full time for the
5 State of Alabama or for a county health department and who
6 receives his or her full compensation on a monthly basis
7 through means of a state warrant drawn upon the State Treasury
8 or by check drawn by the Treasurer of the Alabama State Port
9 Authority or by check drawn by the treasurer of the Alabama
10 state agency for surplus property other than those employees
11 covered by the federal Railroad Retirement Act. Full-time
12 employees of the county health department in all counties
13 having populations of not less than 300,000 nor more than
14 500,000 shall also be included in the definition of employee
15 for the purpose of this chapter, and the health department of
16 any such county is hereby authorized to pay the employer's
17 share of any contributions to the retirement fund; provided
18 further, that any district attorney or full-time employees in
19 the district attorney's office, of any judicial circuit shall
20 be included in the definition of employee for the purpose of
21 this chapter, and the respective judicial circuits are hereby
22 authorized to pay the employer's share of any contribution
23 therefor and any person employed part time by the State of
24 Alabama on a wage and hourly basis, excluding fee
25 compensations and other like arrangements, shall be included

1 in the definition of employee as defined in this chapter
2 provided such person shall agree to have deducted from his or
3 her hourly wage, as stipulated, a pro rata portion of the
4 premium cost of a full-time state employee based on the
5 percentage of time such person is employed by the state
6 according to rules and regulations established by the State
7 Employees' Insurance Board. The term shall also include an
8 employee who worked at least 10 years for the State Department
9 of Transportation in "captive county" circumstances as defined
10 by Section 23-1-100 and who was transferred to county
11 employment upon the adoption of Article 3A, Chapter 1, Title
12 23. Provided further, however, any costs incurred as a result
13 of including such employee in this term shall be payable from
14 funds of the State Department of Transportation.

15 "(4) EMPLOYEE CONTRIBUTION. The amount of the total
16 health insurance premium to be paid by the employee or retiree
17 as determined by the board.

18 "(5) EMPLOYER CONTRIBUTION. The amount of the total
19 health insurance premium to be paid by the employer as
20 determined by the board.

21 "(6) FEDERAL POVERTY LEVEL. Income level determined
22 in Section 673(2) of the Community Services Block Grant Act 2
23 (42 U.S.C. § 9902(2)). Should the federal government no longer
24 derive or substantially change its derivation of the federal
25 poverty level, the State Employees' Insurance Board has the

1 authority to derive and apply an alternate poverty level to
2 carry out its obligations under this chapter.

3 "(7) HEALTH INSURANCE PREMIUM. The total health
4 insurance cost under the State Employees' Health Insurance
5 Plan with respect to each class of employees or retirees.
6 Individual premiums may include adjustments and surcharges for
7 (i) family size including, but not limited to, a husband and
8 wife both being covered by the State Employees' Health
9 Insurance Plan, (ii) spouse's eligibility for other health
10 insurance, (iii) smokers and users of tobacco products, (iv)
11 preventative care and wellness care participation, and (v) any
12 such other categories of risk that the board shall approve.

13 "(8) MEDICARE RETIREE. A retiree entitled to
14 benefits under the federal Medicare program (Subchapter XVIII
15 of the Social Security Act, 42 U.S.C. §§ 1395 et seq.).

16 "(9) NON-MEDICARE RETIREE. A retiree not entitled to
17 benefits under the federal Medicare program (Subchapter XVIII
18 of the Social Security Act, 42 U.S.C. §§ 1395 et seq.).

19 "(10) OTHER EMPLOYER GROUP HEALTH INSURANCE
20 COVERAGE. Group health insurance coverage available to an
21 employee or retiree through an employer other than the State
22 of Alabama. Other employer group health insurance coverage
23 does not include the State Employees' Health Insurance Plan,
24 the Public Education Employees' Health Insurance Plan, or the
25 local government health insurance plan.

1 "(11) RETIREE. An employee who retires from the
2 service of the State of Alabama, who, at the time of such
3 retirement has at least 10 years of creditable coverage, meets
4 the criteria set out in this chapter and who, following such
5 retirement, draws a monthly benefit from the Employees'
6 Retirement System of Alabama, the Judicial Retirement System
7 of Alabama, the Teachers' Retirement System of Alabama, or the
8 Alabama State Port Authority.

9 "(12) STATE EMPLOYEES' HEALTH INSURANCE PLAN. The
10 health benefit plan administered or offered by the State
11 Employees' Insurance Board for eligible employees and retirees
12 and their respective dependents. The State Employees'
13 Insurance Board may offer supplemental coverages and policies
14 in lieu of or in addition to coverage in the basic medical
15 plan of the State Employees' Health Insurance Plan. Also
16 referred to herein as "health insurance plan" or "plan."

17 "(13) SUPPLEMENTAL COVERAGE. Coverage offered to
18 employees and retirees by the State Employees' Insurance Board
19 in lieu of coverage in the basic medical plan of the State
20 Employees' Health Insurance Plan that supplements an
21 employee's or retiree's other employer group health insurance
22 coverage.

23 "(14) SUPPLEMENTAL POLICY. A policy offered to
24 employees and retirees by the State Employees' Insurance
25 Board, in lieu of or in addition to coverage in the basic

1 medical plan of the State Employees' Health Insurance Plan,
2 that provides a defined set of benefits.

3 "(15) THIRD PARTY ADMINISTRATOR. An entity
4 contracted by the State Employees' Insurance Board to provide
5 certain administrative services as it deems appropriate and
6 necessary to carry out its obligations under this chapter.

7 "(16) YEARS OF CREDITABLE COVERAGE. The number of
8 years and months that an employee is covered under the State
9 Employees' Health Insurance Plan prior to retirement as
10 determined by the State Employees' Insurance Board, including
11 any periods of full-time permanent employment subsequent to
12 retirement up to a maximum of five years. Creditable coverage
13 shall also include months and years: (1) Related to service in
14 the United States Armed Forces; (2) as a part-time employee
15 prior to October 1, 2005; (3) as an employee as defined in
16 Sections 16-25A-1 and 16-25A-11; (4) as a full time employee
17 of a local legislative delegation office which participates in
18 the Employees' Retirement System if the employee is under the
19 state employees' insurance plan on the effective date of this
20 act; (5) as an employee of a postsecondary institution
21 eligible for Public Education Employees' Health Insurance Plan
22 coverage as a retiree whether the institution participates in
23 the Public Education Employees' Health Insurance Plan or has
24 its own plan of insurance for active employees, provided the
25 postsecondary institution contributes an amount to the State

1 Employees Insurance Fund for each of its retired employees
2 equal to any amount appropriated by the state to fund benefits
3 for retired employees as determined by the State Employees'
4 Insurance Board; or (6) as a juvenile probation officer
5 provided that the Administrative Office of Courts contributes
6 an amount to the State Employees Insurance Fund for each
7 retired juvenile probation officer equal to any amount
8 appropriated by the state to fund benefits for retired
9 employees as determined by the State Employees' Insurance
10 Board. For employees of the Alabama State Port Authority, the
11 term years of creditable coverage shall mean the sum of the
12 number of years and months of creditable service as determined
13 by the Employees' Retirement System, the Teachers' Retirement
14 System, or the Judicial Retirement System with regard to any
15 periods of time during which such employee was employed under
16 the Merit System plus the number of years and months of
17 creditable service as determined by the State Employees'
18 Insurance Board with regard to any period of time during which
19 such employee was employed by the Alabama State Port Authority
20 as a non-Merit System employee.

21 "(17) YEARS OF SERVICE. The number of years and
22 months of creditable service by an employee prior to
23 retirement as determined by the Employees' Retirement System,
24 Teachers' Retirement System, or Judicial Retirement System
25 including any periods of full time permanent employment

1 subsequent to retirement up to a maximum of five years. Except
2 for creditable service related to service in the United States
3 Armed Forces, or as an employee as defined in Sections
4 16-25A-1 and 16-25A-11, or as an employee of a postsecondary
5 institution eligible for PEEHIP coverage as a retiree whether
6 the institution participates in PEEHIP or has its own plan of
7 insurance for active employees, the State Employees' Insurance
8 Board may exclude from years of service any years and months
9 of creditable service it determines was not related to service
10 as an employee as defined in Section 36-29-1. For employees of
11 the Alabama State Port Authority, the term years of service
12 shall mean the sum of the number of years and months of
13 creditable service as determined by the Employees' Retirement
14 System, the Teachers' Retirement System, or the Judicial
15 Retirement System with regard to any periods of time during
16 which such employee was employed under the Merit System plus
17 the number of years and months of creditable service as
18 determined by the State Employees' Insurance Board with regard
19 to any period of time during which such employee was employed
20 by the Alabama State Port Authority as a non-Merit System
21 employee.

22 "§36-29-7.

23 "(a) The board is hereby authorized to provide under
24 the provisions of this chapter that the employer's

1 contribution to the cost of such plan for coverage of the
2 employee and retiree shall be paid by the employer.

3 "(b) Each employee and retiree shall be entitled to
4 have his or her spouse and dependent children, as defined by
5 the rules and regulations of the board, included in the
6 coverage provided upon agreeing to pay the employee's
7 contribution of the health insurance premium for such
8 dependents. The board shall adopt regulations governing the
9 discontinuance and resumption by such employees and retirees
10 of coverage for dependents.

11 "(c) Subject to Section 36-29-19.3, any further
12 changes in employee or retiree contribution to the health
13 insurance premium or other out-of-pocket expenses including,
14 but not limited to, any surcharge, copay, or deductible may
15 only be enacted when: (1) the executive director certifies
16 that after proper evaluation the increase is justified and (2)
17 the change is approved by at least a simple majority vote of
18 the board members present.

19 "(d) As used in this section, the employer shall
20 mean the fund from which the salaries of such employees are
21 paid. There is hereby appropriated annually from each fund
22 amounts sufficient to provide the employer's contribution of
23 the health insurance premium. In the case of those departments
24 supported wholly by transfers from other state funds, there is
25 hereby appropriated from the supporting funds such additional

1 amounts as may be necessary to pay the sums required to pay
2 the employer's contribution costs of employees and retirees of
3 each department so supported in the same proportion as the
4 other state funds contribute to the support and maintenance of
5 such department.

6 "(e) During any period in which an employee or an
7 employee's dependents are covered under this chapter, there
8 shall be withheld from the salary payment of such employee the
9 employee's contribution to the cost of coverage.

10 "(f) There is hereby created in the State Treasury a
11 fund to be known as the State Employees' Insurance Fund. Such
12 fund shall consist of and there shall be deposited into such
13 fund all appropriations made from employer funds, under the
14 provisions of subsection (d) of this section and all premiums
15 paid by employees and retirees under the provisions of
16 subsection (e) of this section and any other premiums paid
17 under the provisions of this chapter. The board shall
18 designate a custodian of this fund who shall be authorized to
19 make deposits into and payments therefrom in accordance with
20 contracts entered into by the board.

21 "§36-29-8.

22 "(a) All persons in the employment of the State of
23 Alabama who are eligible for coverage under the provisions of
24 this chapter and the rules and regulations of the board
25 adopted pursuant thereto shall have the option to be included

1 in such coverage and shall have an option as to whether they
2 will subscribe to such coverage for their dependents, such
3 option to be exercised in the manner and within the time
4 limitation prescribed by the board.

5 "(b) All persons who become employees of the State
6 of Alabama, as defined by the terms of this chapter and the
7 rules and regulations promulgated by the board pursuant
8 thereto, shall have the option to become members of the plan
9 hereby provided and shall have an option as to whether they
10 will subscribe to such coverage for their dependents;
11 provided, that the exercise of such option shall be contingent
12 upon acceptance by the board subject to proper documentation
13 of eligibility and such coverage may be deferred during any
14 reasonable waiting period provided in the contract or
15 contracts.

16 "(c) Any employee or retiree knowingly and willfully
17 submitting materially false information to the board or
18 engaging in fraudulent activity that causes financial harm to
19 the plan, may, upon a determination by the board, (1) repay
20 all claims and other expenses, including an interest charge
21 based on the applicable interest rate paid by the state under
22 Section 40-1-44, incurred by the plan related to the
23 intentional submission of false or misleading information or
24 fraudulent activity and (2) may be subject to disqualification
25 from coverage under the plan.

1 "§36-29-10.

2 "(a) Employees covered under the plan who retire
3 from active service before January 1, 2012, and begin
4 receiving monthly benefits from the Employees' Retirement
5 System of Alabama, Judicial Retirement System of Alabama, or
6 from the Teachers' Retirement System of Alabama may elect to
7 continue coverage under the plan by consenting to have the
8 employee contribution deducted from their monthly benefit
9 payment for coverage of such retired employees.

10 "(b) Employees covered under the plan who retire
11 from active service after December 31, 2011, with at least 10
12 years of creditable coverage and begin receiving monthly
13 benefits from the Employees' Retirement System of Alabama,
14 Judicial Retirement System of Alabama, or the Teachers'
15 Retirement System of Alabama may elect to continue coverage
16 under the plan by consenting to have the employee contribution
17 deducted from their monthly benefit payment for coverage of
18 such retired employees.

19 "(c) The premiums so deducted shall be transmitted
20 monthly to the board. Notwithstanding the foregoing provisions
21 no person otherwise eligible for coverage under the plan shall
22 be denied participation therein, for the reason that such
23 person is precluded from having the cost of his or her
24 coverage deducted from a monthly benefit payment.

1 "(d) The board shall adopt such rules and
2 regulations as they deem appropriate and necessary for
3 carrying out the provisions of this section.

4 "§36-29-19.4.

5 "The board shall provide assistance to low income
6 employees and retirees who meet the federal poverty levels
7 defined in this section, effective October 1, 2005, and for
8 each fiscal year thereafter.

9 "(1) For employees and retirees who contribute to
10 the cost of their health insurance premium and with annual
11 income (determined as provided below on an aggregate basis for
12 an employee or retiree and spouse) equal to or below 300
13 percent of the federal poverty level, the employee or retiree
14 contribution shall be reduced as follows:

15 "a. For employees or retirees with annual income
16 equal to or less than 100 percent of the federal poverty
17 level, the employee contribution will be calculated using 50
18 percent of the applicable premium.

19 "b. For employees or retirees with annual income
20 equal to or less than 150 percent of the federal poverty
21 level, but more than 100 percent of the federal poverty level,
22 the employee contribution shall be calculated using 60 percent
23 of the applicable premium.

24 "c. For employees or retirees with annual income
25 equal to or less than 200 percent of the federal poverty

1 level, but more than 150 percent of the federal poverty level,
2 the employee contribution shall be calculated using 70 percent
3 of the applicable premium.

4 "d. For employees or retirees with annual income
5 equal to or less than 250 percent of the federal poverty
6 level, but more than 200 percent of the federal poverty level,
7 the employee contribution shall be calculated using 80 percent
8 of the applicable premium.

9 "e. For employees or retirees with annual income
10 equal to or less than 300 percent of the federal poverty
11 level, but more than 250 percent of the federal poverty level,
12 the employee contribution shall be calculated using 90 percent
13 of the applicable premium.

14 "(2) An application procedure shall be devised and
15 implemented by the board through which employees and retirees
16 may apply for the federal poverty level assistance described
17 in this section. For purposes of applying for federal poverty
18 level assistance, the annual income of an employee or retiree
19 shall be aggregated with the annual income of the spouse of
20 such employee or retiree and shall include all sources of
21 income including, but not limited to, wages, pension benefits,
22 and Social Security benefits, that may be included in gross
23 income for purposes of federal income taxation. Applicants
24 must submit with their application a copy of their federal tax
25 return and, if the applicant did not file a joint return with

1 his or her spouse, a copy of the spouse's federal tax return.
2 Any reduction in an employee's or retiree's contribution
3 pursuant to this section shall not be considered income of the
4 employee or retiree for purposes of determining Medicaid
5 eligibility for such employee or retiree.

6 "§36-29-19.7.

7 "(a) The board shall set forth the employer
8 contribution to the health insurance premium for each retiree
9 class.

10 "(b) For employees who retire other than for
11 disability after September 30, 2005, but before January 1,
12 2012, the employer contribution to the health insurance
13 premium set forth by the board for each retiree class shall be
14 reduced by two percent for each year of service less than 25
15 and increased by two percent for each year of service over 25,
16 subject to adjustment by the board for changes in Medicare
17 premium costs required to be paid by a retiree. In no case
18 shall the employer contribution of the health insurance
19 premium exceed 100 percent of the total health insurance
20 premium cost for the retiree.

21 "(c) (1) Except as provided in subdivision (2), for
22 employees who retire after December 31, 2011, the employer
23 contribution to the health insurance premium set forth by the
24 board for each retiree class shall be reduced by four percent
25 for each year of creditable coverage less than 25 and

1 increased by two percent for each year of creditable coverage
2 over 25, subject to adjustment by the board for changes in
3 Medicare premium costs required to be paid by a retiree. In no
4 case shall the employer contribution of the health insurance
5 premium exceed 100 percent of the total health insurance
6 premium cost for the retiree.

7 "(2) Employees who retire on disability after
8 December 31, 2011, and apply for Social Security Disability
9 shall be exempt from this subsection for a period of two years
10 and thereafter if the employee is approved for Social Security
11 Disability.

12 "(d) For employees who retire after December 31,
13 2011, who are not covered by Medicare, regardless of years of
14 coverage, the employer contribution to the health insurance
15 premium set forth by the board for each retire class shall be
16 reduced by a percentage equal to one percent multiplied by the
17 difference between the Medicare entitlement age and the age of
18 the employee at the time of retirement as determined by the
19 board. This reduction in the employer contribution will cease
20 upon notification to the board of the attainment of Medicare
21 coverage.

22 "(e) No later than October 1, 2016, the net employer
23 contribution to the health insurance premium for employees who
24 retire after December 31, 2011, without Medicare coverage

1 shall not exceed the amount of the employer contribution to
2 cover the cost of an active employee.

3 "(f) For an employee who has elected to participate
4 in the Deferred Retirement Option Plan (DROP) as defined under
5 Sections 16-25-150 and 36-27-170, the date participant entered
6 DROP is his or her retirement date for purposes of this act
7 only, provided that the DROP participant: (1) Does not
8 voluntarily terminate participation in DROP within the first
9 three years; and (2) withdraws from service at the end of DROP
10 participation period."

11 Section 2. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.

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Kay Ivey

President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB309

Senate 25-MAY-11

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 09-JUN-11

By: Senator Marsh

APPROVED *June 14, 2011*
TIME: *3:15 p.m.*
Robert Bentley
GOVERNOR

Alabama Secretary Of State
Act Num.....: 2011-698
Bill Num....: S-309
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