

1 HB389
2 175422-1
3 By Representatives Patterson, Hanes, Pettus, Whorton (R),
4 Ledbetter, Rowe, Treadaway and Ball
5 RFD: State Government
6 First Read: 10-MAR-16

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8 SYNOPSIS: Existing law provides a defined benefit
9 retirement plan for any public employee who is
10 first hired on or after January 1, 2013, by an
11 employer who participates in the Teachers'
12 Retirement System or the Employees' Retirement
13 System.

14 This bill would redefine the term "Tier I
15 Plan Member" to include any person who, regardless
16 of his or her date of employment, is employed as a
17 correctional officer, firefighter, law enforcement
18 officer, or state policeman.

19 This bill would also redefine the term "Tier
20 II Plan Member" to exclude a person hired as a
21 correctional officer, firefighter, law enforcement
22 officer, or state policeman.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Sections 36-27-1, 36-27-16, and 36-27-24,
2 Code of Alabama 1975, relating to retirement; to define
3 certain terms relating to the Retirement Systems of Alabama;
4 to redefine the terms "Tier I Plan Member" to include any
5 person who, regardless of his or her date of employment, is
6 employed as a correctional officer, firefighter, law
7 enforcement officer, or state policeman, and "Tier II Plan
8 Member" to exclude a person hired as a correctional officer,
9 firefighter, law enforcement officer, or state policeman.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 36-27-1, 36-27-16, and 36-27-24,
12 Code of Alabama 1975, are amended to read as follows:

13 "§36-27-1.

14 "When used in this article, the following terms
15 shall have the following meanings, respectively, unless the
16 context clearly indicates otherwise:

17 "(1) RETIREMENT SYSTEM. The Employees' Retirement
18 System of Alabama as defined in Section 36-27-2.

19 "(2) EMPLOYEE. Any regular employee of the State of
20 Alabama whose salary is paid by state warrant by the state,
21 except a member of the Legislature of the state, a person who
22 is covered or eligible to be covered under the Teachers'
23 Retirement System of Alabama or any other retirement system to
24 which contributions are made by the state, an elective
25 official of the state government, and a temporary employee or
26 person engaged under retainer or special agreement. In all
27 cases of doubt the Board of Control shall determine who is an

1 employee within the meaning of this article. The term shall
2 include any regular employee of the Alabama state hospitals
3 and Partlow State School and Hospital and the Alabama State
4 Port Authority, however paid.

5 "(3) EMPLOYER. The State of Alabama or any
6 department, commission, institution, or any other agency of
7 and within the state by which an employee is paid, including
8 employers as provided in Section 36-27-6.

9 "(4) MEMBER. Any employee included in the membership
10 of the system as provided in Section 36-27-4.

11 "(5) BOARD OF CONTROL. The board provided for in
12 Section 36-27-23 to administer the retirement system.

13 "(6) MEDICAL BOARD. The board of physicians provided
14 for in Section 36-27-23.

15 "(7) SERVICE. Service as an employee paid for by an
16 employer.

17 "(8) PRIOR SERVICE. Service rendered prior to the
18 date of establishment of the retirement system for which
19 credit is allowable under Section 36-27-11.

20 "(9) MEMBERSHIP SERVICE. Service as an employee
21 rendered while a member of the retirement system and on
22 account of which contributions are made.

23 "(10) CREDITABLE SERVICE. "Prior service" plus
24 "membership service" rendered since last becoming a member.

25 "(11) BENEFICIARY. Any person in receipt of a
26 pension, an annuity, a retirement allowance or other benefit
27 as provided by this article.

1 "(12) REGULAR INTEREST. Interest compounded annually
2 at the rate determined by the Board of Control in accordance
3 with subsection (f) of Section 36-27-25.

4 "(13) ACCUMULATED CONTRIBUTIONS. The sum of all the
5 amounts deducted from the compensation of a member credited to
6 his or her individual account in the Annuity Savings Fund,
7 together with regular interest thereon, as provided in Section
8 36-27-24.

9 "(14) EARNABLE COMPENSATION. The full rate of
10 compensation that would be payable to an employee if he or she
11 worked the full normal work-time. In cases where compensation
12 includes maintenance, the Board of Control shall fix the value
13 of that part of the compensation not paid in money. Earnable
14 compensation shall not exceed the limitations imposed by
15 Section 401(a) (17) of the Internal Revenue Code for public
16 pension funds, except that any employee who was a member of
17 the Employees' Retirement System before the first plan year
18 beginning after December 31, 1995, shall not be subject to the
19 earning limitations set forth in Section 401(a) (17). For Tier
20 I plan members, the term earnable compensation for retirement
21 purposes shall not include subsistence payments that are made
22 to a member and shall include overtime payments that are made
23 to a member; however, earnable compensation shall not exceed
24 120 percent of any members' annual base compensation as
25 certified by the employer. For Tier II plan members, earnable
26 compensation shall include overtime payments that are made to
27 the member but shall not include subsistence payments that are

1 made to the member and shall not exceed one hundred
2 twenty-five percent (125%) of the member's annual base
3 compensation, as certified by the employer.

4 "(15) AVERAGE FINAL COMPENSATION. For any Tier I
5 plan member, the average annual compensation of the member,
6 with respect to which he or she had made contributions
7 pursuant to subsection (b) of Section 36-27-24 during the
8 three years, in his or her last 10 years of creditable service
9 for which the average is highest or during his or her entire
10 period of creditable service if less than three years; except,
11 that for any period prior to November 1, 1959, the
12 compensation used in computing the average shall include
13 compensation in excess of the maximum amount with respect to
14 which members were required to contribute. For any Tier II
15 plan member, the average annual compensation of the member,
16 with respect to which he or she has made contributions
17 pursuant to subsection (b) of Section 36-27-24 during the five
18 years, in his or her last ten years of creditable service for
19 which the average is highest or during his or her entire
20 period of creditable service if less than five years.

21 "(16) ANNUITY. Payments for life derived from the
22 "accumulated contributions" of a member. All annuities shall
23 be payable in equal monthly installments.

24 "(17) PENSION. Payments for life derived from money
25 provided by the employer. All pensions shall be payable in
26 equal monthly installments.

1 "(18) RETIREMENT ALLOWANCE. The sum of the "annuity"
2 and the "pension."

3 "(19) RETIREMENT. Withdrawal from active service
4 with a retirement allowance or optional benefit in lieu
5 thereof granted under this article.

6 "(20) ANNUITY RESERVE. The present value of all
7 payments to be made on account of any annuity or benefit in
8 lieu of any annuity computed upon the basis of the mortality
9 tables adopted by the Board of Control and regular interest.

10 "(21) PENSION RESERVE. The present value of all
11 payments to be made on account of any pension or benefit in
12 lieu of any pension computed upon the basis of the mortality
13 tables adopted by the Board of Control and regular interest.

14 "(22) ACTUARIAL EQUIVALENT. A benefit of equal value
15 when computed upon the basis of the mortality tables adopted
16 by the Board of Control and regular interest.

17 "(23) STATE POLICEMAN. An employee in the classified
18 service under the Merit System Act approved by the State
19 Personnel Board to perform the duties of highway patrolman or
20 a beverage control agent or a crime investigator. The term
21 shall not include a member employed as a policeman under
22 Section 36-27-6.

23 "(24) TIER I PLAN. The defined benefit pension plan
24 provided by the Retirement System to Tier I plan members.

25 "(25) TIER II PLAN. The defined benefit pension plan
26 provided by the Retirement System to Tier II plan members.

1 "(26) TIER I PLAN MEMBER. Any member of the
2 Retirement System who had service for which he or she received
3 credit in the Employees' Retirement System or in the Teachers'
4 Retirement System prior to January 1, 2013, or who is employed
5 as a correctional officer, firefighter, or law enforcement
6 officer as those terms are defined in Section 36-27-59 or a
7 state policeman as defined in subdivision (23).

8 "(27) TIER II PLAN MEMBER. Any member of the
9 Retirement System who first began eligible employment with an
10 Employees' Retirement System or a Teachers' Retirement System
11 participating employer on or after January 1, 2013, and who
12 had no eligible service in the Employees' Retirement System or
13 the Teachers' Retirement System prior to January 1, 2013. The
14 term does not include a member employed as a correctional
15 officer, firefighter, or law enforcement officer as those
16 terms are defined in Section 36-27-59 or a state policeman as
17 defined in subdivision (23).

18 "§36-27-16.

19 "(a) (1) RETIREMENT, ETC., OF EMPLOYEES GENERALLY;
20 ELIGIBILITY FOR SERVICE RETIREMENT BENEFITS.

21 "a. Any Tier I plan member who withdraws from
22 service upon or after attainment of age 60 and any Tier II
23 plan member who withdraws from service upon or after
24 attainment of age 62 may retire upon written application to
25 the Board of Control setting forth at what time, not less than
26 30 days nor more than 90 days subsequent to the execution and
27 filing thereof, he or she desires to be retired; provided,

1 that any such member who became a member on or after October
2 1, 1963, shall have completed 10 or more years of creditable
3 service; provided further, that a Tier I plan member employed
4 as a state policeman shall be eligible to file application for
5 service retirement upon attaining age 52 and ~~a Tier II plan~~
6 ~~member employed as a state policeman or employed as a~~
7 ~~correctional officer, firefighter, or law enforcement officer~~
8 ~~as defined in Section 36-27-59 with at least ten years of~~
9 ~~creditible service as a correctional officer, firefighter, or~~
10 ~~law enforcement officer shall be eligible to file application~~
11 ~~for service retirement upon attaining age 56.~~

12 "b. Any Tier I plan member who has attained age 60,
13 ~~or age 52 in the case of a state policeman,~~ or age 56 in the
14 case of a correctional officer, firefighter, or law
15 enforcement officer, as defined in Section 36-27-59 who has at
16 least 10 years of creditable service as a correctional
17 officer, firefighter, or law enforcement officer, and any Tier
18 II plan member who has attained age 62, ~~or age 56 in the case~~
19 ~~of a state policeman or in the case of a correctional officer,~~
20 ~~firefighter, or law enforcement officer as defined in Section~~
21 ~~36-27-59 who has at least ten years of creditable service as~~
22 ~~a correctional officer, firefighter, or law enforcement~~
23 ~~officer,~~ and has previously withdrawn from service may retire
24 upon written application to the Board of Control setting forth
25 at what time, not less than 30 days nor more than 90 days
26 subsequent to the execution and filing thereof, he or she
27 desires to be retired; provided, the member shall have at the

1 time of his or her withdrawal from service completed the age
2 and service requirements established by the Board of Control
3 for eligibility for deferred benefits; provided, that such
4 minimum number of years of creditable service shall not be
5 less than 10 years nor more than 25 years.

6 "c. In addition to any law or part of law relating
7 to service retirement under the Employees' Retirement System
8 of Alabama, any Tier I plan member of the Employees'
9 Retirement System who withdraws from service after completion
10 of not less than 25 years of creditable service may retire
11 without a reduction in retirement allowance upon written
12 application to the Board of Control of the Employees'
13 Retirement System setting forth the first day of which month,
14 not less than 30 days or more than 90 days subsequent to the
15 execution and filing thereof, he or she desires to be retired,
16 provided that no person whose employer participates in the
17 Employees' Retirement System under Section 36-27-6 shall be
18 entitled to the benefits provided in this paragraph unless
19 such employer elects to come under the provisions of the
20 paragraph. Any employer making such election must bear the
21 cost of such benefit.

22 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

23 "a. Upon retirement from service a Tier I plan
24 member shall receive a service retirement allowance which
25 shall consist of:

26 "1. An annuity which shall be the actuarial
27 equivalent of his or her accumulated contributions at the time

1 of his or her retirement; except, that in the case of a state
2 policeman who has completed 20 years of creditable service as
3 a state policeman who retires after age 56 but prior to age
4 60, the annuity shall be equal to the annuity that would have
5 been payable upon service retirement at age 60 had the member
6 continued in service to age 60 without change in compensation;

7 "2. A pension which shall be equal to the annuity
8 allowance at age of retirement, but not to exceed an annuity
9 allowable at age 65, computed on the basis of contributions
10 made prior to attainment of age 65; except, that in the case
11 of a state policeman who has completed 20 years of creditable
12 service as a state policeman who retires after age 56 but
13 prior to age 60, the pension shall be equal to the annuity
14 that he or she would have received had he or she contributed
15 to age 60 without change in compensation; and

16 "3. An additional pension, if he or she has a prior
17 service certificate in full force and effect, which shall be
18 equal to the annuity which would have been provided at the age
19 of retirement, but which shall not exceed an annuity allowable
20 at age 65 by twice the contributions which he or she would
21 have made during the period of prior service with which he or
22 she is credited had the system been in operation and had he or
23 she contributed thereunder; except, that in case of a state
24 policeman who has completed 20 years of creditable service as
25 a state policeman who retired after age 56 but prior to age
26 60, an additional pension, if he or she has a prior service
27 certificate in full force and effect, which shall be equal to

1 the annuity which would have been provided at age 60, but
2 which shall not exceed an annuity allowable at age 60 by twice
3 the contributions which he or she would have made during the
4 period of prior service with which he or she is credited had
5 the system been in operation and had he or she contributed
6 thereunder.

7 "b. Notwithstanding the provisions of subparagraphs
8 1, 2, and 3 of paragraph a. of this subdivision, a state
9 policeman who is a Tier I plan member and who has completed 20
10 years of service as a state policeman who retires after age 52
11 but prior to age 56 shall receive:

12 "1. An annuity which shall be equal to the annuity
13 that would have been payable had the member continued in
14 service for four years without change in compensation;

15 "2. A pension which shall be equal to the annuity
16 that he or she would have received had he or she contributed
17 for four years without change in compensation; and

18 "3. An additional pension, if he or she has a prior
19 service certificate in full force and effect, which shall be
20 equal to the annuity which would have been provided at the age
21 of retirement, but which shall not exceed an annuity allowable
22 at the age of retirement plus four years by twice the
23 contributions which he or she would have made during the
24 period of prior service with which he or she is credited had
25 the system been in operation and had he or she contributed
26 thereunder. In lieu of a determination of the actual
27 compensation of a member that was received during such prior

1 service, the Board of Control may use for the purpose of this
2 article the compensation rate which, if it had progressed with
3 the rates of salary increase shown in the tables as prescribed
4 in subsection (n) of Section 36-27-23, would have resulted in
5 the same average salary of the member for the five years
6 immediately preceding the date of establishment as the records
7 show the member actually received.

8 "c. The annual service retirement pension payable to
9 a Tier I plan member not employed as a state policeman
10 retiring on or after October 1, 1975, shall not be less than
11 an amount which, when added to his or her annuity, is equal to
12 the greater of the following two amounts:

13 "1. Two and one-eightieth percent of the member's
14 average final compensation multiplied by the number of years
15 of his or her creditable service; or

16 "2. If he or she became a member before October 1,
17 1965, \$72.00 multiplied by the number of years of his or her
18 creditable service not in excess of 25 years.

19 "d. The annual service retirement pension payable to
20 a Tier I plan member employed as a state policeman retiring on
21 or after October 1, 1975, shall not be less than an amount
22 which, when added to his or her annuity is equal to the
23 greater of the following two amounts:

24 "1. Two and seven-eighths percent of the member's
25 average final compensation multiplied by the number of years
26 of his or her creditable service. Creditable service for any
27 state policeman under the age of 56 years who has completed 20

1 years of creditable service as a state policeman shall include
2 a bonus equal to four additional years. Creditable service for
3 a state policeman 56 years or older shall include a bonus
4 equal to the years or portion thereof remaining until the
5 member reaches age 60; or

6 "2. If he or she became a member before October 1,
7 1965, \$86.40 multiplied by the number of years of his or her
8 creditable service not in excess of 25 years; provided,
9 however, that if such member has completed 20 years of
10 creditable service as a state policeman and has not attained
11 age 60 at the time of retirement, the pension shall be
12 determined as provided in this subparagraph on the basis of
13 the number of years of creditable service which he or she
14 would have had if he or she had remained in service for four
15 years, except that, in the case of those state policemen
16 retiring at age 56 or after, the number of years in
17 determining the pension shall not exceed the number of years
18 of creditable service which he or she would have had if he or
19 she had remained in service to age 60.

20 "e. Upon retirement from service, a Tier II plan
21 member ~~who is not employed as a state policeman~~ shall receive
22 a service retirement allowance which shall consist of an
23 annuity which shall be the actuarial equivalent of the
24 member's accumulated contributions at the time of retirement
25 and a pension which, when added to the member's annuity, shall
26 be equal to one and sixty-five hundredths percent (1.65%) of
27 the member's average final compensation multiplied by the

1 number of years of creditable service. Notwithstanding the
2 foregoing, the service retirement allowance shall not exceed
3 eighty percent (80%) of the member's average final
4 compensation.

5 ~~"f. Upon retirement from service, a Tier II plan~~
6 ~~member who is employed as a state policeman shall receive a~~
7 ~~service retirement allowance which shall consist of an annuity~~
8 ~~which shall be the actuarial equivalent of the member's~~
9 ~~accumulated contributions at the time of retirement and a~~
10 ~~pension which, when added to the member's annuity, shall be~~
11 ~~equal to two and three eighths percent (2.375%) of the~~
12 ~~member's average final compensation multiplied by the member's~~
13 ~~number of years of creditable service. Notwithstanding the~~
14 ~~foregoing, the service retirement allowance shall not exceed~~
15 ~~eighty percent (80%) of the member's average final~~
16 ~~compensation.~~

17 "g f. Anything in this article to the contrary
18 notwithstanding, in the application of the foregoing
19 provisions of this subdivision to a member whose creditable
20 service includes a period of service as a state policeman and
21 a period of service in another employment classification, the
22 benefit rates applicable to a member employed as a state
23 policeman shall apply to all creditable service as a state
24 policeman, and the benefit rates applicable to a member not
25 employed as a state policeman shall apply to all creditable
26 service, but in all other respects the pension under this
27 subdivision shall be determined on the basis of the member's

1 employment classification at the time of his or her withdrawal
2 from service.

3 "h g. The annual service retirement pension payable
4 to any state employee who had attained age 60 on or before
5 October 1, 1945, who declined membership in the Employees'
6 Retirement System of Alabama in the manner prescribed in
7 Section 36-27-4 and who retires as a state employee after
8 completing a minimum of 15 years' service shall be \$72.00
9 multiplied by the number of years of his or her service not in
10 excess of 25 years.

11 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;
12 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

13 "a. Upon application of a Tier I plan member in
14 service or of his or her employer, any member who has had 10
15 or more years of creditable service who becomes disabled may
16 be retired on a disability retirement allowance by the Board
17 of Control not less than 30 nor more than 90 days next
18 following the date of filing of such application; provided,
19 that the medical board, after a medical examination of such
20 member, shall certify that such member is mentally or
21 physically incapacitated for the further performance of duty,
22 that such incapacity is likely to be permanent and that such
23 member should be retired. Upon the application of a Tier II
24 plan member in service or his or her employer, any member who
25 has had 10 or more years of creditable service may be retired
26 by the Board of Control on a disability retirement allowance
27 not less than 30 nor more than 90 days next following the date

1 of filing such application; provided, that the medical board,
2 after a medical examination of such member, shall certify that
3 the member is totally and permanently mentally or physically
4 incapacitated from regular and substantial gainful employment,
5 and that such member should be retired.

6 "b. Without regard to the number of years of
7 creditable service, a member employed as a state policeman, a
8 municipal police officer or a deputy sheriff, or a member
9 employed as a state, municipal, or county firefighter who is
10 not covered through his or her current employer under the
11 United States Social Security Act, who as a result of his or
12 her employment, in the line of duty and not as a result of his
13 or her own misconduct, shall become permanently and totally
14 disabled to the extent that he or she cannot perform his or
15 her duties or duties of a less strenuous nature, as an
16 employee of the State of Alabama or as an employee of an
17 employer participating under the provisions of Section
18 36-27-6, shall be retired on a disability retirement
19 allowance, not less than 30 nor more than 90 days next
20 following the date of filing of such application, provided
21 that the medical board, after a medical examination of such
22 member shall certify that such member is mentally or
23 physically incapacitated for the further performance of duty,
24 that such incapacity is likely to be permanent, and that such
25 member should be retired.

26 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

1 "a. Upon retirement for disability a member shall
2 receive a service retirement allowance if he or she is a Tier
3 I plan member and he or she has attained age 60 or if he or
4 she is a Tier II plan member and he or she has attained age
5 62, or if any law or part of any law pertaining to retirement
6 under the Employees' Retirement System of Alabama provides for
7 service retirement after the completion of 25 years of
8 creditable service without a reduction in the retirement
9 allowance and the member has completed 25 years of creditable
10 service, or, in the case of a state policeman, if he or she is
11 a Tier I plan member and he or she has attained age 52 or, in
12 the case of a state policeman or a correctional officer,
13 firefighter, or law enforcement officer as defined in Section
14 36-27-59 with at least ten years of creditable service as a
15 correctional officer, firefighter, or law enforcement officer,
16 if he or she ~~is a Tier II plan member and he or she~~ has
17 attained age 56; otherwise, he or she shall receive a
18 disability retirement allowance which shall consist of:

19 "1. An annuity which shall be the actuarial
20 equivalent of his or her accumulated contributions at the time
21 of his or her retirement;

22 "2. A pension which shall be equal to the pension
23 that would have been payable under subparagraphs 2 and 3 of
24 paragraph a. of subdivision (2) of subsection (a) of this
25 section upon service retirement at age 65 had the member
26 continued in service to that age without change in
27 compensation.

1 "b. The annual disability retirement pension payable
2 to a Tier I plan member not employed as a state policeman
3 retiring on or after October 1, 1975, shall not be less than
4 an amount which when added to his or her annuity is equal to
5 the greatest of the following two amounts:

6 "1. Two and one-eightieth percent of the member's
7 average final compensation multiplied by the number of years
8 of creditable service.

9 "2. If he or she became a member before October 1,
10 1965, \$54.00 multiplied by the number of years of his or her
11 creditable service not in excess of 25 years.

12 "c. The annual disability retirement pension payable
13 to a Tier I plan member employed as a state policeman retiring
14 on or after October 1, 1975, shall not be less than an amount
15 which when added to his or her annuity is equal to the greater
16 of the following two amounts:

17 "1. Two and seven-eighths percent of the member's
18 average final compensation multiplied by the number of years
19 of his or her creditable service. Creditable service for any
20 state policeman under the age of 56 years who has completed 20
21 years of creditable service as a state policeman shall include
22 a bonus equal to four additional years. Creditable service for
23 a state policeman 56 years or older shall include a bonus
24 equal to the years or portion thereof remaining until the
25 member reaches age 60; or

1 "2. If he or she became a member before October 1,
2 1965, \$64.80 multiplied by the number of years of his or her
3 creditable service not in excess of 25 years.

4 "d. The annual disability retirement allowance
5 payable to a Tier II plan member not employed as a state
6 policeman shall be equal to one and sixty-five hundredths
7 percent (1.65%) of the member's average final compensation
8 multiplied by the number of years of creditable service.

9 "e. The annual disability retirement allowance
10 payable to a Tier II plan member employed as a state policeman
11 shall be equal to two and three-eighths percent (2.375%) of
12 the member's average final compensation multiplied by the
13 number of years of creditable service.

14 "f. Anything in this chapter to the contrary
15 notwithstanding in the application of the provisions of this
16 subdivision to a member whose creditable service includes a
17 period of service as a state policeman and a period of service
18 in another employment classification the benefit rates
19 applicable to a member employed as a state policeman shall
20 apply to all creditable service as a state policeman, and the
21 benefit rates applicable to a member not employed as a state
22 policeman shall apply to all other creditable service, but in
23 all other respects the pension under this subdivision shall be
24 determined on the basis of the member's employment
25 classification at the time of his or her withdrawal from
26 service.

1 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
2 ACCOUNT OF DISABILITY. Once each year during the first five
3 years following the retirement of a member on a disability
4 retirement allowance and once every three-year period
5 thereafter, the Board of Control may, and upon his or her
6 application shall, require any disability beneficiary who has
7 not yet attained age 60 if the beneficiary is a Tier I plan
8 member or age 62 if the beneficiary is a Tier II plan member
9 to undergo a medical examination, such examination to be made
10 at the place of residence of such beneficiary or other place
11 mutually agreed upon by a physician or physicians of or
12 designated by the medical board. Should any disability
13 beneficiary who has not yet attained age 60 if the beneficiary
14 is a Tier I plan member or age 62 if the beneficiary is a Tier
15 II plan member refuse to submit to such medical examination,
16 his or her allowance may be discontinued until his or her
17 withdrawal of such refusal, and, should his or her refusal
18 continue for one year, all his or her rights in and to his or
19 her pension may be revoked by the Board of Control; provided,
20 that these requirements relative to the medical examination
21 shall not apply in the case of a state policeman retired for
22 disability and who has attained age 52 if he or she is a Tier
23 I plan member or in the case of a state policeman or a
24 correctional officer, firefighter, or law enforcement officer
25 as defined in Section 36-27-59 with at least ten years of
26 creditable service as a correctional officer, firefighter, or
27 law enforcement officer retired for disability who has

1 attained age 56 ~~if he or she is a Tier II plan member~~. Should
2 the medical board report and certify to the Board of Control
3 that a disability beneficiary who is a Tier I plan member is
4 engaged in or is able to engage in a gainful occupation paying
5 more than the difference between his or her retirement
6 allowance and his or her average final compensation and should
7 the Board of Control concur in such report, then the amount of
8 his or her pension shall be reduced to an amount which,
9 together with his or her annuity and the amount earnable by
10 him or her shall equal the amount of his or her average final
11 compensation. Should his or her earning capacity be later
12 changed, the amount of his or her pension may be further
13 modified; provided, that the new pension shall not exceed the
14 amount of the pension originally granted nor an amount which,
15 when added to the amount earnable by the beneficiary, together
16 with this annuity exceeds the amount of his or her average
17 final compensation.

18 "Should the medical board report and certify to the
19 Board of Control that a disability beneficiary who is a Tier
20 II plan member has the capacity to engage in regular and
21 substantial gainful employment, the Board of Control shall
22 discontinue the beneficiary's retirement allowance until the
23 beneficiary is otherwise eligible for service retirement.

24 "(c) Disposition of contributions and allowances
25 upon death, etc., of member.

26 "(1) Should a member cease to be an employee except
27 by death or by retirement under the provisions of this

1 article, the contributions standing to the credit of his or
2 her individual account in the Annuity Savings Fund shall be
3 paid to him or her upon demand and, in addition to such
4 payment, there shall be paid five-tenths of the interest
5 accumulations standing to the credit of his or her individual
6 account if he or she shall have not less than three but less
7 than 16 years of membership service, six-tenths of such
8 interest accumulations if he or she shall have not less than
9 16 but less than 21 years of membership service, seven-tenths
10 of such interest accumulations if he or she shall have not
11 less than 21 but less than 26 years of membership service and
12 eight-tenths of such interest accumulations if he or she shall
13 have not less than 26 years of membership service.

14 "(2) In case of the death of a member eligible for
15 service retirement pursuant to subsection (a) of this section,
16 an allowance shall be paid to the surviving spouse, or to such
17 other person who the member shall have designated, in an
18 amount that would have been payable if the member had retired
19 immediately prior to his or her death and had elected Option
20 3, as set forth in subsection (d) of this section or,
21 alternatively, if the surviving spouse or other designee
22 desires, he or she may choose to receive, in lieu of the
23 allowance provided under Option 3, the accumulated
24 contributions of the member plus an amount equal to the
25 accumulated contributions of the member not to exceed
26 \$5,000.00 or the accumulated contributions of the member plus

1 the benefit provided by Section 36-27B-3 if a benefit is
2 payable under such section;

3 "(3) In case of the death of a Tier I plan member
4 not eligible for service retirement, after completion of 25
5 years of creditable service, an allowance shall be paid to the
6 surviving spouse, or to such other person who the member shall
7 have designated, in an amount that would have been payable if
8 the member had retired for disability immediately prior to his
9 or her death and had elected Option 3 as set forth in
10 subsection (d) of this section or, alternatively, if the
11 surviving spouse or other designee desires, he or she may
12 choose to receive, in lieu of the allowance provided under
13 Option 3, the accumulated contributions of the member plus an
14 amount equal to the accumulated contributions of the member
15 not to exceed \$5,000.00 or the accumulated contributions of
16 the member plus the benefit provided by Section 36-27B-3 if a
17 benefit is payable under such section;

18 "(4) Upon the death of a member on account of whom
19 no survivor allowance is payable under subdivisions (2) or (3)
20 of this subsection, the accumulated contributions of the
21 member plus an amount equal to the accumulated contributions
22 not to exceed \$5,000 or the accumulated contributions of the
23 member plus the benefit provided by Section 36-27B-3 if a
24 benefit is payable under such section shall be paid to his or
25 her estate or to such person as he or she shall have nominated
26 by written designation duly executed and filed with the Board
27 of Control.

1 "(d) Optional allowances. With the provision that
2 the election of an option shall be effective on the effective
3 date of retirement, any member may elect prior to retirement
4 to receive, in lieu of his or her retirement allowance payable
5 throughout life, the actuarial equivalent, at that time, of
6 his or her retirement allowance in a reduced retirement
7 allowance payable throughout life with the provisions that:

8 "(1) OPTION 1. If he or she dies before he or she
9 has received in annuity payments the present value of his or
10 her annuity as it was at the time of his or her retirement,
11 the balance shall be paid to his or her legal representatives
12 or to such person as he or she shall nominate by written
13 designation duly acknowledged and filed with the Board of
14 Control;

15 "(2) OPTION 2. Upon his or her death, his or her
16 reduced retirement allowance shall be continued throughout the
17 life of and paid to such person as he or she shall nominate by
18 written designation duly acknowledged and filed with the Board
19 of Control at the time of his or her retirement;

20 "(3) OPTION 3. Upon his or her death, one half of
21 his or her reduced allowance shall be continued throughout the
22 life of and paid to such person as he or she shall nominate by
23 written designation duly acknowledged and filed with the Board
24 of Control at the time of his or her retirement; or

25 "(4) OPTION 4. Some other benefit or benefits shall
26 be paid either to the member or to such person or persons as
27 he or she shall nominate; provided, that such other benefits,

1 together with the reduced retirement allowance, shall be
2 certified by the actuary to be of equivalent actuarial value
3 to his or her retirement allowance and shall be approved by
4 the Board of Control.

5 "(e) Effect of return to active service. Should any
6 beneficiary be restored to active service, his or her
7 retirement allowance shall be suspended until he or she again
8 withdraws from service and he or she shall not again become a
9 member of the retirement system nor shall he or she make
10 contributions; except, that should such beneficiary who has
11 been restored to active service continue in service for a
12 period of two or more years from the date of his or her
13 reentry into active service, he or she may request the Board
14 of Control to allow him or her to again become a member of the
15 retirement system. The Board of Control may grant the request
16 for restoration to membership; provided, that such beneficiary
17 whose retirement allowance has been suspended shall repay to
18 the system all moneys received by him or her as benefits
19 during any periods subsequent to the date of his or her
20 reentry into active service and shall make a contribution
21 equal to the amount he or she would have contributed had he or
22 she been a member during the period of his or her restoration
23 to active service on a suspended allowance basis together with
24 the interest which would have been credited to the
25 contributions on account of such period of restoration up to
26 the date such contribution is made.

1 "(f) (1) REDETERMINATION, ETC., OF CERTAIN
2 ALLOWANCES. All retirement allowance payments due on or after
3 October 1, 1975, to members who retired prior to that date
4 shall be redetermined as if the provisions of this section in
5 effect on October 1, 1975, were in effect at the time the
6 member retired. Anything in this article to the contrary
7 notwithstanding, the annual retirement allowance of any member
8 not employed as a state policeman who retired on or before
9 January 1, 1956, shall not be less than \$79.20 multiplied by
10 the number of years of his or her creditable service not in
11 excess of 30 years in the case of service retirement of \$59.40
12 multiplied by the number of years of his or her creditable
13 service not in excess of 30 years in the case of disability
14 retirement. Any increase provided in the retirement allowance
15 payment under this subdivision for a member who retired under
16 the provisions of any optional benefit elected pursuant to
17 subsection (d) of this section shall accrue only to the
18 retired member, and no person designated to receive any
19 payments after the death of a retired member under the
20 provisions of any such optional benefit shall receive any
21 increase in such payments under this subdivision.
22 Notwithstanding, any member who retired prior to October 1,
23 1975, and who chose either Option 2 or Option 3 may elect to
24 receive a reduced allowance and to stipulate that the
25 actuarial equivalent of the increase in his or her retirement
26 allowance, which became effective on that date, be ascribed to
27 his or her designated beneficiary; provided, that such member

1 shall clearly express this intention by filing a written
2 application to the effect with the Secretary-Treasurer of the
3 Employees' Retirement System of Alabama prior to October 1,
4 1976.

5 "(2) Any person who, prior to October 1, 1963, was
6 in receipt of a benefit pursuant to Act No. 376, approved
7 November 6, 1959, but was not a member of the system at the
8 time of retirement shall not be entitled to receive an annual
9 retirement allowance from the system, effective October 1,
10 1971, as follows:

11 "a. If such person was retired on or before January
12 1, 1956, an amount equal to \$79.20 multiplied by the number of
13 years of his or her creditable service not in excess of 30
14 years.

15 "b. If such person was retired after January 1,
16 1956, an amount equal to \$72.00 multiplied by the number of
17 years of his or her creditable service not in excess of 25
18 years.

19 "(3) Prior to October 31, 1975, any beneficiary may
20 elect to leave on deposit with the system all or a specified
21 part of any increase in his or her monthly retirement
22 allowance payments arising in accordance with subdivisions (1)
23 or (2) of this subsection over the monthly allowance which he
24 or she was receiving prior to October 1, 1975. The portion of
25 each monthly payment left in the system in accordance with
26 such election shall be credited, together with regular
27 interest thereon, to the individual account of such

1 beneficiary. Upon the death of such beneficiary the total
2 amount standing to his or her credit, including regular
3 interest to the date of death, shall be paid in a lump sum to
4 his or her legal representatives or to such person as he or
5 she shall have nominated by written designation duly
6 acknowledged and filed with the Board of Control.

7 "(g) Notwithstanding any other provisions of this
8 section to the contrary, when a designated beneficiary for a
9 member predeceases the member who is receiving a monthly
10 benefit allowance provided under Option 2, 3, or 4, the member
11 may designate a replacement beneficiary for the deceased
12 beneficiary to become effective two years after the date of
13 designation of the replacement beneficiary and an actuarial
14 adjustment in the monthly benefit allowance of the member to
15 cover any cost associated with designating a replacement
16 beneficiary shall be reflected thereafter in the monthly
17 benefit allowance received by the member, commencing with the
18 first benefit allowance check received by the member following
19 the date of designation of the replacement beneficiary.

20 "(h) Notwithstanding any provision of this section
21 to the contrary, if a retired member who is receiving a
22 monthly benefit allowance provided under Option 2, 3, or 4
23 divorces his or her designated beneficiary, the member may
24 designate a replacement beneficiary for the beneficiary to
25 become effective two years after the date of designation of
26 the replacement beneficiary and an actuarial adjustment in the
27 monthly benefit allowance of the member to cover any cost

1 associated with designating a replacement beneficiary shall be
2 reflected thereafter in the monthly benefit allowance received
3 by the member, commencing with the first benefit allowance
4 check received by the member following the date of designation
5 of the replacement beneficiary.

6 "(i) Any future act to increase the retirement age
7 for Tier II plan members above the age of 62 shall require a
8 two-thirds vote of the elected membership of each house of the
9 Legislature.

10 "§36-27-24.

11 "(a) Effective October 1, 1997, all the assets of
12 the retirement system shall be credited according to the
13 purpose for which they are held among three funds, namely, the
14 Annuity Savings Fund, the Pension Accumulation Fund, and the
15 Expense Fund. The operation of the former Pension Reserve Fund
16 and the Annuity Reserve Fund shall be discontinued as of such
17 date and the balance of the former Pension Reserve Fund shall
18 be transferred to the Pension Accumulation Fund, and the
19 balance of the former Annuity Reserve Fund shall be
20 transferred to the Pension Accumulation Fund.

21 "(b) Annuity Savings Fund. The Annuity Savings Fund
22 shall be a fund in which shall be accumulated contributions
23 from the compensation of members to provide for their
24 annuities.

25 "Contributions to and payments from the Annuity
26 Savings Fund shall be made as follows: Effective October 1,
27 1971, each employer shall cause to be deducted from the salary

1 of each member on each and every payroll of such employer for
2 each and every payroll period five percent of his or her
3 earnable compensation; except, that in the case of a state
4 policeman, the rate of 10 percent of earnable compensation
5 shall apply, and in computing all retirement benefits it shall
6 be assumed that a seven percent rate of contribution had
7 applied with respect to service as a state policeman prior to
8 July 1, 1957. For all pay dates beginning on or after October
9 1, 2011, each employer, except those employers participating
10 pursuant to Section 36-27-6, shall cause to be deducted from
11 the salary of each member on each and every payroll of such
12 employer for each and every payroll period seven and
13 one-quarter percent (7.25%) of his or her earnable
14 compensation; except, that in the case of a state policeman,
15 the rate of ten percent (10%) of earnable compensation shall
16 apply. For all pay dates beginning on or after October 1,
17 2012, each employer, except those employers participating
18 pursuant to Section 36-27-6, shall cause to be deducted from
19 the salary of each Tier I plan member on each and every
20 payroll of such employer for each and every payroll period
21 seven and one-half percent (7.5%) of his or her earnable
22 compensation; except, that in the case of a state policeman,
23 the rate of ten percent (10%) of earnable compensation shall
24 apply. For all pay dates beginning on or after January 1,
25 2013, each employer shall cause to be deducted from the salary
26 of each Tier II plan member on each and every payroll period
27 six percent (6%) of his or her earnable compensation; ~~except~~

1 ~~that in the case of a state policeman, the rate of ten percent~~
2 ~~(10%) shall apply and in the case of a correctional officer,~~
3 ~~firefighter, or law enforcement officer as defined in Section~~
4 ~~36-27-59, the rate of seven percent (7%) shall apply.~~ Any
5 employer participating under Section 36-27-6, by adoption of a
6 resolution, may elect for the increases in employee
7 contributions provided by Act 2011-676 to be withheld from the
8 earnable compensation of employees of the employer. In
9 determining the amount earnable by a member in a payroll
10 period, the Board of Control may consider the rate of annual
11 compensation payable to such member on the first day of the
12 payroll period as continuing through such payroll period, and
13 it may omit deductions from compensation for any period less
14 than a full payroll period if an employee was not a member on
15 the first day of the payroll period, and, to facilitate the
16 making of deductions, it may modify the deductions required of
17 any member by such an amount as shall not exceed one tenth of
18 one percent of the annual compensation upon the basis of which
19 such deductions are made.

20 "The deductions provided for in this subsection
21 shall be made notwithstanding that the minimum compensation
22 provided for by law for any member shall be reduced thereby.
23 Every member shall be deemed to consent and agree to the
24 deduction made and provided for in this subsection and shall
25 receipt for his or her full salary or compensation and payment
26 of salary or compensation less such deductions shall be a full
27 and complete discharge and acquittance of all claims and

1 demands whatsoever for the services rendered by such person
2 during the period covered by such payment, except as to the
3 benefits provided under this article. The employer shall
4 certify to the Board of Control in each and every payroll or
5 in such other manner as the board may prescribe the amounts to
6 be deducted, and each of the amounts shall be deducted and,
7 when deducted, shall be paid into the Annuity Savings Fund and
8 shall be credited, together with regular interest thereon, to
9 the individual account of the member from whose compensation
10 the deduction was made.

11 "In addition to the contributions deducted from
12 compensation as provided in this subsection, subject to the
13 approval of the Board of Control, any member may deposit in
14 the Annuity Savings Fund by a single payment or by an
15 increased rate of contribution an amount computed to be
16 sufficient to purchase an additional annuity which, together
17 with his or her prospective retirement allowance, will provide
18 for him or her a total retirement allowance not to exceed one
19 half of his or her average final compensation at age 60. Such
20 additional amounts so deposited shall become a part of his or
21 her accumulated contributions, except in the case of
22 retirement, when they shall be treated as excess contributions
23 returnable to the member in cash or as an annuity of
24 equivalent actuarial value and shall not be considered in
25 computing his or her pension.

26 "The contributions and interest credits of a member
27 withdrawn by him or her or paid to his or her estate or to his

1 or her designated beneficiary in event of his or her death
2 shall be paid from the Annuity Savings Fund. Should a member
3 cease to be a member other than by retirement under the
4 provisions of this article, an amount equivalent to the
5 difference, if any, between his or her accumulated
6 contributions and the amount then paid shall be transferred to
7 the Expense Fund. Upon the retirement of a member or the death
8 of an eligible member where an allowance to a surviving spouse
9 or other designated beneficiary is payable, his or her
10 accumulated contributions shall be transferred from the
11 Annuity Savings Fund to the Pension Accumulation Fund.

12 "Notwithstanding the preceding provisions, no
13 deductions shall be made from any member's salary on account
14 of which the employer's contributions are in default.

15 "The State Personnel Board, with the approval of the
16 Governor, may provide that the state shall pick up member
17 contributions to the Employees' Retirement System of Alabama
18 as required by this subsection on behalf of all state
19 employees who participate in the Employees' Retirement System
20 by a corresponding reduction in the salary of the member, such
21 pick-up to be mandatory for all such employees, and the
22 contributions so picked up shall be treated as employer
23 contributions in determining tax treatment under the Internal
24 Revenue Code. These contributions shall be paid from the same
25 source of funds which is used in paying earnings to the
26 employee. If employee contributions are so picked up they
27 shall be treated for all other purposes of state law in the

1 same manner and to the same extent as employee contributions
2 made prior to the date picked up.

3 "(c) Pension Accumulation Fund. The Pension
4 Accumulation Fund shall be the fund in which shall be
5 accumulated all reserves other than the amounts held in the
6 Annuity Savings Fund for the payment of all pensions, all
7 allowances granted to surviving spouses or other designated
8 beneficiaries and other benefits payable from contributions
9 made by the employer and from which shall be paid all
10 pensions, all allowances granted to surviving spouses or other
11 designated beneficiaries and other benefits on account of
12 members with prior service credit.

13 "Contributions to and payments from the Pension
14 Accumulation Fund shall be made as follows: On account of each
15 member there shall be paid monthly by the employer an amount
16 equal to a certain percentage of the earnable compensation of
17 each member to be known as the "normal contribution" and an
18 additional amount equal to a percentage of his or her earnable
19 compensation to be known as the "accrued liability
20 contribution," and these two amounts shall be paid monthly
21 into the Pension Accumulation Fund; provided, that in the case
22 of a state policeman, such percentage rates of contributions
23 shall be calculated separately. The percentage rate of such
24 contributions shall be fixed for each fiscal year on the basis
25 of the liabilities of the retirement system as shown by the
26 last annual actuarial valuation, and such percentage rate as

1 established by such valuation shall take effect the following
2 October 1 and continue in effect for the fiscal year.

3 "On the basis of regular interest and of such
4 mortality and other tables as shall be adopted by the Board of
5 Control, the actuary engaged by the board to make such
6 valuation required by this article during the period over
7 which the accrued liability contribution is payable shall,
8 immediately after making such valuation, determine the uniform
9 and constant percentage of the earnable compensation of the
10 average new entrant which, if contributed on the basis of his
11 or her compensation throughout his or her entire period of
12 active service, would be sufficient to provide for the payment
13 of any pension payable on his or her account. The percentage
14 rate so determined shall be known as the "normal contribution"
15 rate. The normal rate of contributions shall be determined by
16 the actuary after each valuation.

17 "The accrued liability contribution rate shall be
18 computed by the actuary on the basis of each valuation as the
19 percentage rate of the total annual compensation of all
20 members which is sufficient to liquidate the accrued liability
21 over a period to be determined by the Board of Control which
22 shall be not less than 10 nor more than 30 years.

23 "The unfunded accrued liability shall be computed by
24 the actuary as the total liabilities of the system which are
25 not dischargeable by the assets of the Annuity Savings Fund
26 and the Pension Accumulation Fund and the present value of the
27 aforesaid normal contributions.

1 "For purposes of computing the unfunded accrued
2 liability the assets shall be determined as follows:

3 "On September 30, 1997, the assets shall be
4 determined by using the market value of such assets. For
5 subsequent years the value of the assets shall be determined
6 by the system's actuary using a five year smoothed market
7 value.

8 "The total amount payable in each year to the
9 Pension Accumulation Fund shall be not less than the sum of
10 the percentage rates known as the normal contribution rate and
11 the accrued liability contribution rate of the total
12 compensation earnable by all members during the preceding
13 year.

14 "All interest and dividends earned on the funds of
15 the retirement system shall be credited to the Pension
16 Accumulation Fund. The amounts needed to allow a regular
17 interest on the reserves in the Annuity Savings Fund shall be
18 transferred in accordance with this article from the Pension
19 Accumulation Fund. The Board of Control, in its discretion,
20 may transfer to and from the Pension Accumulation Fund the
21 amounts of any surplus or deficit which may develop in the
22 Annuity Savings Fund, or the Expense Fund.

23 "Upon the death of a member on account of whom no
24 survivor allowance is payable under subdivisions (2) and (3)
25 of subsection (c) of Section 36-27-16, the death benefit as
26 provided in subdivision (4) of subsection (c) of Section
27 36-27-16 equal to the accumulated contributions, not to exceed

1 \$5,000.00, shall be payable from the Pension Accumulation
2 Fund.

3 "(d) Expense Fund. The Expense Fund shall be the
4 fund from which the expenses of the administration of the
5 retirement system shall be paid, exclusive of amounts payable
6 as retirement allowances and as other benefits provided in
7 this chapter. In addition thereto and on account of each
8 member of the retirement system, there shall be paid monthly
9 by the employer an amount equal to a certain percentage of the
10 earnable compensation of each member for the administrative
11 expenses of the retirement system. The percentage rate of such
12 contribution shall be fixed by the Board of Control on the
13 basis of the cost exclusive of that provided by interest not
14 returnable. Any amounts credited to the accounts of the
15 members withdrawing before retirement and not returnable under
16 the provisions of subsection (c) of Section 36-27-16 shall be
17 credited to the Expense Fund.

18 "(e) Employer's contributions. For each biennium
19 beginning October 1, 1965, each employer shall pay to the
20 retirement system the rates provided in this section and
21 thereafter, at least 30 days preceding October 1 of each
22 fiscal year, the Board of Control shall certify to the chief
23 fiscal officer of each employer the percentage rates of
24 earnable compensation of the members required to be paid to
25 the retirement system in accordance with subsections (c) and
26 (d) of this section.

1 "The employer's contribution on account of the
2 membership of employees whose salaries are paid in whole or in
3 part from funds derived from federal grants shall be paid from
4 funds derived from the federal grants in accordance with
5 statutes governing the administration of the grants and in
6 proportion to salaries paid therefrom. At such time and in
7 such manner as may be required, the Board of Control shall
8 certify to each department of state receiving a federal grant
9 the amount due and payable from the grant as the employer's
10 contribution to the retirement system on account of the
11 membership of the department whose salaries are paid in whole
12 or in part from funds derived from such federal grants. The
13 fiscal agent of the department shall authorize the state
14 Comptroller to draw a warrant or warrants in payment of the
15 amount certified as due and payable from federal grants.

16 "(f) Appropriations. There is hereby appropriated
17 annually from the fund from which salaries of the employees of
18 each employer are paid the amounts sufficient to carry out the
19 provisions of this section. In the case of those departments
20 supported wholly by transfers from other state funds, there is
21 hereby appropriated from the supporting funds such additional
22 amounts as may be necessary to pay the employer contribution
23 of each department so supported in the same proportion as the
24 other state funds contribute to the support and maintenance of
25 such department.

26 "(g) Employer cost provided for in this article
27 together with member contributions required under this article

1 shall be paid to the Employees' Retirement System on the first
2 day of the month following the month in which the related
3 member salary is earned. Delinquent accounts shall accrue
4 interest at the actuarial assumed investment rate beginning 30
5 days after the original due date. The member contributions for
6 each member shall be reported to the Employees' Retirement
7 System in a format prescribed by the Employees' Retirement
8 System."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.