

1 HB264
2 209357-1
3 By Representative Ingram
4 RFD: Ways and Means General Fund
5 First Read: 02-FEB-21

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8 SYNOPSIS: This bill would modify the retirement
9 benefits for Tier II plan members of the Employees'
10 Retirement System by providing 30-year service
11 retirement, allowing the conversion of sick leave
12 into creditable service, and, for firefighters, law
13 enforcement officers, and correctional officers,
14 providing hazardous duty time.

15 This bill would also increase the Tier II
16 plan member contribution rate.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To amend Sections 36-26-36.1, 36-27-16, as amended
23 by Act 2019-221 and Act 2019-316, 2019 Regular Session,
24 36-27-24, and 36-27-59, Code of Alabama 1975, relating to
25 retirement benefits for employees who are members of the
26 Employees' Retirement System; to modify the retirement
27 benefits for Tier II plan members of the system by providing

1 30-year service retirement, allowing the conversion of sick
2 leave into creditable service, and, for firefighters, law
3 enforcement officers, and correctional officers, providing
4 hazardous duty time; and to increase the Tier II plan member
5 contribution rate.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 36-26-36.1, 36-27-16, as
8 amended by Act 2019-221 and Act 2019-316, 2019 Regular
9 Session, 36-27-24, and 36-27-59 of the Code of Alabama 1975,

10 "§36-26-36.1.

11 "~~(a)~~ Any Tier I or Tier II plan member of the
12 Teachers' or Employees' Retirement System of Alabama not
13 otherwise covered by a provision to convert unused sick leave
14 into membership service for purposes of service retirement
15 may, at their option and in lieu of receiving payment for 50
16 percent of their accrued and unused sick leave at the time of
17 their retirement as provided in Section 36-26-36, or any other
18 payment that may be provided for such unused sick leave, use
19 their accrued sick leave, up to a maximum number of 180
20 accrued sick leave days or as otherwise allowed by law,
21 whichever is greater, to be included as membership service in
22 determining the total years of creditable service in the
23 Employees' Retirement System of Alabama or the Teachers'
24 Retirement System of Alabama; provided that no employee of an
25 employer participating in the Employees' Retirement System
26 pursuant to Section 36-27-6 shall be entitled to the benefits
27 provided herein unless such employer shall elect to come under

1 the provisions of this section and further elects to fund the
2 benefits provided herein. Unused sick leave may be converted
3 to membership service only for the purpose of applying for
4 service retirement and may be considered in the determination
5 of eligibility for retirement. The conversion shall not apply
6 to eligibility for deferred retirement. It is further provided
7 that if a Tier I or Tier II plan member eligible for service
8 retirement is also eligible for disability retirement the
9 member may elect disability retirement and also receive credit
10 for accumulated sick leave pursuant to this section. No Tier I
11 or Tier II plan member shall receive both service credit
12 provided for by this section and payment or partial payment
13 for accrued sick leave pursuant to any other provision of law.

14 ~~"(b) The conversion of accrued sick leave into~~
15 ~~creditable service provided in this section shall not apply to~~
16 ~~any Tier II plan member.~~

17 "§36-27-16.

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

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

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

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

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

19 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

20 "a. Upon retirement from service, a Tier I plan
21 member shall receive a service retirement allowance which
22 shall consist of:

23 "1. An annuity which shall be the actuarial
24 equivalent of his or her accumulated contributions at the time
25 of his or her retirement; except, that in the case of a state
26 policeman who has completed 20 years of creditable service as
27 a state policeman who retires after age 56 but prior to age

1 60, the annuity shall be equal to the annuity that would have
2 been payable upon service retirement at age 60 had the member
3 continued in service to age 60 without change in compensation;

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

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

1 period of prior service with which he or she is credited had
2 the system been in operation and had he or she contributed
3 thereunder.

4 "b. Notwithstanding the provisions of subparagraphs
5 1, 2, and 3 of paragraph a. of this subdivision, a state
6 policeman who is a Tier I plan member and who has completed 20
7 years of service as a state policeman who retires after age 52
8 but prior to age 56 shall receive:

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

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

15 "3. An additional pension, if he or she has a prior
16 service certificate in full force and effect, which shall be
17 equal to the annuity which would have been provided at the age
18 of retirement, but which shall not exceed an annuity allowable
19 at the age of retirement plus four years by twice the
20 contributions which he or she would have made during the
21 period of prior service with which he or she is credited had
22 the system been in operation and had he or she contributed
23 thereunder. In lieu of a determination of the actual
24 compensation of a member that was received during such prior
25 service, the Board of Control may use for the purpose of this
26 article the compensation rate which, if it had progressed with
27 the rates of salary increase shown in the tables as prescribed

1 in subsection (n) of Section 36-27-23, would have resulted in
2 the same average salary of the member for the five years
3 immediately preceding the date of establishment as the records
4 show the member actually received.

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

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

13 "2. If he or she became a member before October 1,
14 1965, \$72.00 multiplied by the number of years of his or her
15 creditable service not in excess of 25 years.

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

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

1 equal to the years or portion thereof remaining until the
2 member reaches age 60; or

3 "2. If he or she became a member before October 1,
4 1965, \$86.40 multiplied by the number of years of his or her
5 creditable service not in excess of 25 years; provided,
6 however, that if such member has completed 20 years of
7 creditable service as a state policeman and has not attained
8 age 60 at the time of retirement, the pension shall be
9 determined as provided in this subparagraph on the basis of
10 the number of years of creditable service which he or she
11 would have had if he or she had remained in service for four
12 years, except that, in the case of those state policemen
13 retiring at age 56 or after, the number of years in
14 determining the pension shall not exceed the number of years
15 of creditable service which he or she would have had if he or
16 she had remained in service to age 60.

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

1 eighty percent (80%) of the member's average final
2 compensation.

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

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

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

9 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;
10 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

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

1 the member is totally and permanently mentally or physically
2 incapacitated from regular and substantial gainful employment,
3 and that the member should be retired.

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

23 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

24 "a. Upon retirement for disability, a member shall
25 receive a service retirement allowance if he or she is a Tier
26 I plan member and he or she has attained age 60 or if he or
27 she is a Tier II plan member and he or she has attained age

1 62, or if any law or part of any law pertaining to retirement
2 under the Employees' Retirement System of Alabama provides for
3 service retirement after the completion of 25 years of
4 creditable service or 30 years of creditable service without a
5 reduction in the retirement allowance and the member has
6 completed 25 years of creditable service or 30 years of
7 creditable service, whichever is applicable, or, in the case
8 of a state policeman, if he or she is a Tier I plan member and
9 he or she has attained age 52 or, in the case of a state
10 policeman or a correctional officer, firefighter, or law
11 enforcement officer as defined in Section 36-27-59 with at
12 least ~~ten~~ 10 years of creditable service as a correctional
13 officer, firefighter, or law enforcement officer, if he or she
14 is a Tier II plan member and he or she has attained age 56;
15 otherwise, he or she shall receive a disability retirement
16 allowance which shall consist of:

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

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

25 "b. The annual disability retirement pension payable
26 to a Tier I plan member not employed as a state policeman
27 retiring on or after October 1, 1975, shall not be less than

1 an amount which when added to his or her annuity is equal to
2 the greatest of the following two amounts:

3 "1. Two and one-eightieth percent of the member's
4 average final compensation multiplied by the number of years
5 of creditable service.

6 "2. If he or she became a member before October 1,
7 1965, \$54.00 multiplied by the number of years of his or her
8 creditable service not in excess of 25 years.

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

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

23 "2. If he or she became a member before October 1,
24 1965, \$64.80 multiplied by the number of years of his or her
25 creditable service not in excess of 25 years.

26 "d. The annual disability retirement allowance
27 payable to a Tier II plan member not employed as a state

1 policeman shall be equal to one and sixty-five hundredths
2 percent (1.65%) of the member's average final compensation
3 multiplied by the number of years of creditable service.

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

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

22 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
23 ACCOUNT OF DISABILITY. Once each year during the first five
24 years following the retirement of a member on a disability
25 retirement allowance and once every three-year period
26 thereafter, the Board of Control may, and upon his or her
27 application shall, require any disability beneficiary who has

1 not yet attained age 60 if the beneficiary is a Tier I plan
2 member or age 62 if the beneficiary is a Tier II plan member
3 to undergo a medical examination, the examination to be made
4 at the place of residence of the beneficiary or other place
5 mutually agreed upon by a physician or physicians of, or
6 designated by, the medical board. Should any disability
7 beneficiary who has not yet attained age 60, if the
8 beneficiary is a Tier I plan member or age 62 if the
9 beneficiary is a Tier II plan member, refuse to submit to the
10 medical examination, his or her allowance may be discontinued
11 until his or her withdrawal of such refusal, and, should his
12 or her refusal continue for one year, all his or her rights in
13 and to his or her pension may be revoked by the Board of
14 Control; provided, that these requirements relative to the
15 medical examination shall not apply in the case of a state
16 policeman retired for disability and who has attained age 52
17 if he or she is a Tier I plan member or in the case of a state
18 policeman or a correctional officer, firefighter, or law
19 enforcement officer as defined in Section 36-27-59 with at
20 least ~~ten~~ 10 years of creditable service as a correctional
21 officer, firefighter, or law enforcement officer retired for
22 disability who has attained age 56 if he or she is a Tier II
23 plan member. Should the medical board report and certify to
24 the Board of Control that a disability beneficiary who is a
25 Tier I plan member is engaged in or is able to engage in a
26 gainful occupation paying more than the difference between his
27 or her retirement allowance and his or her average final

1 compensation and should the Board of Control concur in the
2 report, then the amount of his or her pension shall be reduced
3 to an amount which, together with his or her annuity and the
4 amount earnable by him or her shall equal the amount of his or
5 her average final compensation. Should his or her earning
6 capacity be later changed, the amount of his or her pension
7 may be further modified; provided, that the new pension shall
8 not exceed the amount of the pension originally granted nor an
9 amount which, when added to the amount earnable by the
10 beneficiary, together with this annuity exceeds the amount of
11 his or her average final compensation.

12 "Should the medical board report and certify to the
13 Board of Control that a disability beneficiary who is a Tier
14 II plan member has the capacity to engage in regular and
15 substantial gainful employment, the Board of Control shall
16 discontinue the beneficiary's retirement allowance until the
17 beneficiary is otherwise eligible for service retirement.

18 "(c) Disposition of contributions and allowances
19 upon death, etc., of member.

20 "(1) Should a member cease to be an employee except
21 by death or by retirement under the provisions of this
22 article, the contributions standing to the credit of his or
23 her individual account in the Annuity Savings Fund shall be
24 paid to him or her upon demand and, in addition to such
25 payment, there shall be paid five-tenths of the interest
26 accumulations standing to the credit of his or her individual
27 account if he or she shall have not less than three but less

1 than 16 years of membership service, six-tenths of such
2 interest accumulations if he or she shall have not less than
3 16 but less than 21 years of membership service, seven-tenths
4 of such interest accumulations if he or she shall have not
5 less than 21 but less than 26 years of membership service and
6 eight-tenths of such interest accumulations if he or she shall
7 have not less than 26 years of membership service.

8 "(2) In case of the death of a member eligible for
9 service retirement pursuant to subsection (a) of this section,
10 an allowance shall be paid to the surviving spouse, or to such
11 other person who the member shall have designated, in an
12 amount that would have been payable if the member had retired
13 immediately prior to his or her death and had elected Option
14 3, as set forth in subsection (d) of this section or,
15 alternatively, if the surviving spouse or other designee
16 desires, he or she may choose to receive, in lieu of the
17 allowance provided under Option 3, the accumulated
18 contributions of the member plus an amount equal to the
19 accumulated contributions of the member not to exceed
20 \$5,000.00 or the accumulated contributions of the member plus
21 the benefit provided by Section 36-27B-3 if a benefit is
22 payable under such section;

23 "(3) In case of the death of a Tier I plan member
24 not eligible for service retirement, after completion of 25
25 years of creditable service, an allowance shall be paid to the
26 surviving spouse, or to such other person who the member shall
27 have designated, in an amount that would have been payable if

1 the member had retired for disability immediately prior to his
2 or her death and had elected Option 3 as set forth in
3 subsection (d) or, alternatively, if the surviving spouse or
4 other designee desires, he or she may choose to receive, in
5 lieu of the allowance provided under Option 3, the accumulated
6 contributions of the member plus an amount equal to the
7 accumulated contributions of the member not to exceed five
8 thousand dollars (\$5,000) or the accumulated contributions of
9 the member plus the benefit provided by Section 36-27B-3 if a
10 benefit is payable under such section;

11 "(4) Upon the death of a member on account of whom
12 no survivor allowance is payable under subdivision (2) or (3),
13 the accumulated contributions of the member plus an amount
14 equal to the accumulated contributions not to exceed five
15 thousand dollars (\$5,000) 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 shall be paid to his or
18 her estate or to the person as he or she shall have nominated
19 by written designation duly executed and filed with the Board
20 of Control.

21 "(d) Optional allowances. With the provision that
22 the election of an option shall be effective on the effective
23 date of retirement, any member may elect prior to retirement
24 to receive, in lieu of his or her retirement allowance payable
25 throughout life, the actuarial equivalent, at that time, of
26 his or her retirement allowance in a reduced retirement
27 allowance payable throughout life with the provisions that:

1 "(1) OPTION 1. If he or she dies before he or she
2 has received in annuity payments the present value of his or
3 her annuity as it was at the time of his or her retirement,
4 the balance shall be paid to his or her legal representatives
5 or to the person as he or she shall nominate by written
6 designation duly acknowledged and filed with the Board of
7 Control;

8 "(2) OPTION 2. Upon his or her death, his or her
9 reduced retirement allowance shall be continued throughout the
10 life of and paid to the person as he or she shall nominate by
11 written designation duly acknowledged and filed with the Board
12 of Control at the time of his or her retirement;

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

18 "(4) OPTION 4. Some other benefit or benefits shall
19 be paid either to the member or to the person or persons as he
20 or she shall nominate; provided, that such other benefits,
21 together with the reduced retirement allowance, shall be
22 certified by the actuary to be of equivalent actuarial value
23 to his or her retirement allowance and shall be approved by
24 the Board of Control.

25 "(5) OPTION 5. At the time of retirement, he or she
26 shall receive a partial lump sum distribution as a single
27 payment not to exceed the sum of 24 months of the maximum

1 monthly retirement allowance the member could receive. This
2 option may be elected in addition to the election of another
3 option under this subsection and the further reduced monthly
4 retirement allowance shall be calculated in accordance with
5 the selected option. This option shall not be available to a
6 member who is receiving a disability retirement.

7 "(6) Where the person designated by the member under
8 this subsection to receive a continued retirement allowance is
9 a beneficiary of a special needs trust established under Title
10 42, United States Code, Section 1396p(d)(4)(A) or (C), as
11 amended, the retirement allowance payable to the person may be
12 paid by the retirement system to the special needs trust upon
13 written direction to the retirement system by the member or,
14 after the member is deceased, by the designated person or by
15 his or her legal representative if the designated person is a
16 minor or is incapacitated.

17 "(e) Effect of return to active service. Should any
18 beneficiary be restored to active service, his or her
19 retirement allowance shall be suspended until he or she again
20 withdraws from service and he or she shall not again become a
21 member of the retirement system nor shall he or she make
22 contributions; except, that should such beneficiary who has
23 been restored to active service continue in service for a
24 period of two or more years from the date of his or her
25 reentry into active service, he or she may request the Board
26 of Control to allow him or her to again become a member of the
27 retirement system. The Board of Control may grant the request

1 for restoration to membership; provided, that such beneficiary
2 whose retirement allowance has been suspended shall repay to
3 the system all ~~moneys~~ monies received by him or her as
4 benefits during any periods subsequent to the date of his or
5 her reentry into active service and shall make a contribution
6 equal to the amount he or she would have contributed had he or
7 she been a member during the period of his or her restoration
8 to active service on a suspended allowance basis together with
9 the interest which would have been credited to the
10 contributions on account of such period of restoration up to
11 the date such contribution is made.

12 "(f) (1) REDETERMINATION, ETC., OF CERTAIN
13 ALLOWANCES. All retirement allowance payments due on or after
14 October 1, 1975, to members who retired prior to that date
15 shall be redetermined as if the provisions of this section in
16 effect on October 1, 1975, were in effect at the time the
17 member retired. Anything in this article to the contrary
18 notwithstanding, the annual retirement allowance of any member
19 not employed as a state policeman who retired on or before
20 January 1, 1956, shall not be less than \$79.20 multiplied by
21 the number of years of his or her creditable service not in
22 excess of 30 years in the case of service retirement of \$59.40
23 multiplied by the number of years of his or her creditable
24 service not in excess of 30 years in the case of disability
25 retirement. Any increase provided in the retirement allowance
26 payment under this subdivision for a member who retired under
27 the provisions of any optional benefit elected pursuant to

1 subsection (d) of this section shall accrue only to the
2 retired member, and no person designated to receive any
3 payments after the death of a retired member under the
4 provisions of any such optional benefit shall receive any
5 increase in such payments under this subdivision.

6 Notwithstanding, any member who retired prior to October 1,
7 1975, and who chose either Option 2 or Option 3 may elect to
8 receive a reduced allowance and to stipulate that the
9 actuarial equivalent of the increase in his or her retirement
10 allowance, which became effective on that date, be ascribed to
11 his or her designated beneficiary; provided, that such member
12 shall clearly express this intention by filing a written
13 application to the effect with the Secretary-Treasurer of the
14 Employees' Retirement System of Alabama prior to October 1,
15 1976.

16 "(2) Any person who, prior to October 1, 1963, was
17 in receipt of a benefit pursuant to Act No. 376, approved
18 November 6, 1959, but was not a member of the system at the
19 time of retirement, shall not be entitled to receive an annual
20 retirement allowance from the system, effective October 1,
21 1971, as follows:

22 "a. If such person was retired on or before January
23 1, 1956, an amount equal to \$79.20 multiplied by the number of
24 years of his or her creditable service not in excess of 30
25 years.

26 "b. If such person was retired after January 1,
27 1956, an amount equal to \$72.00 multiplied by the number of

1 years of his or her creditable service not in excess of 25
2 years.

3 "(3) Prior to October 31, 1975, any beneficiary may
4 elect to leave on deposit with the system all or a specified
5 part of any increase in his or her monthly retirement
6 allowance payments arising in accordance with subdivisions (1)
7 or (2) of this subsection over the monthly allowance which he
8 or she was receiving prior to October 1, 1975. The portion of
9 each monthly payment left in the system in accordance with
10 such election shall be credited, together with regular
11 interest thereon, to the individual account of such
12 beneficiary. Upon the death of such beneficiary the total
13 amount standing to his or her credit, including regular
14 interest to the date of death, shall be paid in a lump sum to
15 his or her legal representatives or to such person as he or
16 she shall have nominated by written designation duly
17 acknowledged and filed with the Board of Control.

18 "(g) Notwithstanding any other provisions of this
19 section to the contrary, when a designated beneficiary for a
20 member predeceases the member who is receiving a monthly
21 benefit allowance provided under Option 2, 3, or 4, the member
22 may designate a replacement beneficiary for the deceased
23 beneficiary to become effective two years after the date of
24 designation of the replacement beneficiary and an actuarial
25 adjustment in the monthly benefit allowance of the member to
26 cover any cost associated with designating a replacement
27 beneficiary shall be reflected thereafter in the monthly

1 benefit allowance received by the member, commencing with the
2 first benefit allowance check received by the member following
3 the date of designation of the replacement beneficiary.

4 "(h) Notwithstanding any provision of this section
5 to the contrary, if a retired member who is receiving a
6 monthly benefit allowance provided under Option 2, 3, or 4
7 divorces his or her designated beneficiary, the member may
8 designate a replacement beneficiary for the beneficiary to
9 become effective two years after the date of designation of
10 the replacement beneficiary and an actuarial adjustment in the
11 monthly benefit allowance of the member to cover any cost
12 associated with designating a replacement beneficiary shall be
13 reflected thereafter in the monthly benefit allowance received
14 by the member, commencing with the first benefit allowance
15 check received by the member following the date of designation
16 of the replacement beneficiary.

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

21 "§36-27-24.

22 "(a) Effective October 1, 1997, all the assets of
23 the retirement system shall be credited according to the
24 purpose for which they are held among three funds, namely, the
25 Annuity Savings Fund, the Pension Accumulation Fund, and the
26 Expense Fund. The operation of the former Pension Reserve Fund
27 and the Annuity Reserve Fund shall be discontinued as of such

1 date and the balance of the former Pension Reserve Fund shall
2 be transferred to the Pension Accumulation Fund, and the
3 balance of the former Annuity Reserve Fund shall be
4 transferred to the Pension Accumulation Fund.

5 "(b) Annuity Savings Fund. The Annuity Savings Fund
6 shall be a fund in which shall be accumulated contributions
7 from the compensation of members to provide for their
8 annuities.

9 "Contributions to and payments from the Annuity
10 Savings Fund shall be made as follows: Effective October 1,
11 1971, each employer shall cause to be deducted from the salary
12 of each member on each and every payroll of such employer for
13 each and every payroll period five percent of his or her
14 earnable compensation; except, that in the case of a state
15 policeman, the rate of 10 percent of earnable compensation
16 shall apply, and in computing all retirement benefits it shall
17 be assumed that a seven percent rate of contribution had
18 applied with respect to service as a state policeman prior to
19 July 1, 1957. For all pay dates beginning on or after October
20 1, 2011, each employer, except those employers participating
21 pursuant to Section 36-27-6, shall cause to be deducted from
22 the salary of each member on each and every payroll of such
23 employer for each and every payroll period seven and
24 one-quarter percent (7.25%) of his or her earnable
25 compensation; except, that in the case of a state policeman,
26 the rate of ten percent (10%) of earnable compensation shall
27 apply. For all pay dates beginning on or after October 1,

1 2012, each employer, except those employers participating
2 pursuant to Section 36-27-6, shall cause to be deducted from
3 the salary of each Tier I plan member on each and every
4 payroll of such employer for each and every payroll period
5 seven and one-half percent (7.5%) of his or her earnable
6 compensation; except, that in the case of a state policeman,
7 the rate of ten percent (10%) of earnable compensation shall
8 apply. For all pay dates beginning on or after January 1,
9 2013, each employer shall cause to be deducted from the salary
10 of each Tier II plan member on each and every payroll period
11 six percent (6%) of his or her earnable compensation; except
12 that in the case of a state policeman, the rate of ten percent
13 (10%) shall apply and in the case of a correctional officer,
14 firefighter, or law enforcement officer as defined in Section
15 36-27-59, the rate of seven percent (7%) shall apply. For all
16 pay dates beginning on or after October 1, 2021, for all
17 employers, each employer shall cause to be deducted from the
18 salary of each Tier II plan member on each and every payroll
19 period six and three quarters percent (6.75%) of his or her
20 earnable compensation. Any employer participating under
21 Section 36-27-6, by adoption of a resolution, may elect for
22 the increases in employee contributions provided by Act
23 2011-676 to be withheld from the earnable compensation of
24 employees of the employer. In determining the amount earnable
25 by a member in a payroll period, the Board of Control may
26 consider the rate of annual compensation payable to such
27 member on the first day of the payroll period as continuing

1 through such payroll period, and it may omit deductions from
2 compensation for any period less than a full payroll period if
3 an employee was not a member on the first day of the payroll
4 period, and, to facilitate the making of deductions, it may
5 modify the deductions required of any member by such an amount
6 as shall not exceed one tenth of one percent of the annual
7 compensation upon the basis of which such deductions are made.

8 "The deductions provided for in this subsection
9 shall be made notwithstanding that the minimum compensation
10 provided for by law for any member shall be reduced thereby.
11 Every member shall be deemed to consent and agree to the
12 deduction made and provided for in this subsection and shall
13 receipt for his or her full salary or compensation and payment
14 of salary or compensation less such deductions shall be a full
15 and complete discharge and acquittance of all claims and
16 demands whatsoever for the services rendered by such person
17 during the period covered by such payment, except as to the
18 benefits provided under this article. The employer shall
19 certify to the Board of Control in each and every payroll or
20 in such other manner as the board may prescribe the amounts to
21 be deducted, and each of the amounts shall be deducted and,
22 when deducted, shall be paid into the Annuity Savings Fund and
23 shall be credited, together with regular interest thereon, to
24 the individual account of the member from whose compensation
25 the deduction was made.

26 "In addition to the contributions deducted from
27 compensation as provided in this subsection, subject to the

1 approval of the Board of Control, any member may deposit in
2 the Annuity Savings Fund by a single payment or by an
3 increased rate of contribution an amount computed to be
4 sufficient to purchase an additional annuity which, together
5 with his or her prospective retirement allowance, will provide
6 for him or her a total retirement allowance not to exceed one
7 half of his or her average final compensation at age 60. Such
8 additional amounts so deposited shall become a part of his or
9 her accumulated contributions, except in the case of
10 retirement, when they shall be treated as excess contributions
11 returnable to the member in cash or as an annuity of
12 equivalent actuarial value and shall not be considered in
13 computing his or her pension.

14 "The contributions and interest credits of a member
15 withdrawn by him or her or paid to his or her estate or to his
16 or her designated beneficiary in event of his or her death
17 shall be paid from the Annuity Savings Fund. Should a member
18 cease to be a member other than by retirement under the
19 provisions of this article, an amount equivalent to the
20 difference, if any, between his or her accumulated
21 contributions and the amount then paid shall be transferred to
22 the Expense Fund. Upon the retirement of a member or the death
23 of an eligible member where an allowance to a surviving spouse
24 or other designated beneficiary is payable, his or her
25 accumulated contributions shall be transferred from the
26 Annuity Savings Fund to the Pension Accumulation Fund.

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

4 "The State Personnel Board, with the approval of the
5 Governor, may provide that the state shall pick up member
6 contributions to the Employees' Retirement System of Alabama
7 as required by this subsection on behalf of all state
8 employees who participate in the Employees' Retirement System
9 by a corresponding reduction in the salary of the member, such
10 pick-up to be mandatory for all such employees, and the
11 contributions so picked up shall be treated as employer
12 contributions in determining tax treatment under the Internal
13 Revenue Code. These contributions shall be paid from the same
14 source of funds which is used in paying earnings to the
15 employee. If employee contributions are so picked up they
16 shall be treated for all other purposes of state law in the
17 same manner and to the same extent as employee contributions
18 made prior to the date picked up.

19 "(c) Pension Accumulation Fund. The Pension
20 Accumulation Fund shall be the fund in which shall be
21 accumulated all reserves other than the amounts held in the
22 Annuity Savings Fund for the payment of all pensions, all
23 allowances granted to surviving spouses or other designated
24 beneficiaries and other benefits payable from contributions
25 made by the employer and from which shall be paid all
26 pensions, all allowances granted to surviving spouses or other

1 designated beneficiaries and other benefits on account of
2 members with prior service credit.

3 "Contributions to and payments from the Pension
4 Accumulation Fund shall be made as follows: On account of each
5 member there shall be paid monthly by the employer an amount
6 equal to a certain percentage of the earnable compensation of
7 each member to be known as the "normal contribution" and an
8 additional amount equal to a percentage of his or her earnable
9 compensation to be known as the "accrued liability
10 contribution," and these two amounts shall be paid monthly
11 into the Pension Accumulation Fund; provided, that in the case
12 of a state policeman, such percentage rates of contributions
13 shall be calculated separately. The percentage rate of such
14 contributions shall be fixed for each fiscal year on the basis
15 of the liabilities of the retirement system as shown by the
16 last annual actuarial valuation, and such percentage rate as
17 established by such valuation shall take effect the following
18 October 1 and continue in effect for the fiscal year.

19 "On the basis of regular interest and of such
20 mortality and other tables as shall be adopted by the Board of
21 Control, the actuary engaged by the board to make such
22 valuation required by this article during the period over
23 which the accrued liability contribution is payable shall,
24 immediately after making such valuation, determine the uniform
25 and constant percentage of the earnable compensation of the
26 average new entrant which, if contributed on the basis of his
27 or her compensation throughout his or her entire period of

1 active service, would be sufficient to provide for the payment
2 of any pension payable on his or her account. The percentage
3 rate so determined shall be known as the "normal contribution"
4 rate. The normal rate of contributions shall be determined by
5 the actuary after each valuation.

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

12 "The unfunded accrued liability shall be computed by
13 the actuary as the total liabilities of the system which are
14 not dischargeable by the assets of the Annuity Savings Fund
15 and the Pension Accumulation Fund and the present value of the
16 aforesaid normal contributions.

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

19 "On September 30, 1997, the assets shall be
20 determined by using the market value of such assets. For
21 subsequent years the value of the assets shall be determined
22 by the system's actuary using a five year smoothed market
23 value.

24 "The total amount payable in each year to the
25 Pension Accumulation Fund shall be not less than the sum of
26 the percentage rates known as the normal contribution rate and
27 the accrued liability contribution rate of the total

1 compensation earnable by all members during the preceding
2 year.

3 "All interest and dividends earned on the funds of
4 the retirement system shall be credited to the Pension
5 Accumulation Fund. The amounts needed to allow a regular
6 interest on the reserves in the Annuity Savings Fund shall be
7 transferred in accordance with this article from the Pension
8 Accumulation Fund. The Board of Control, in its discretion,
9 may transfer to and from the Pension Accumulation Fund the
10 amounts of any surplus or deficit which may develop in the
11 Annuity Savings Fund, or the Expense Fund.

12 "Upon the death of a member on account of whom no
13 survivor allowance is payable under subdivisions (2) and (3)
14 of subsection (c) of Section 36-27-16, the death benefit as
15 provided in subdivision (4) of subsection (c) of Section
16 36-27-16 equal to the accumulated contributions, not to exceed
17 \$5,000.00, shall be payable from the Pension Accumulation
18 Fund.

19 "(d) Expense Fund. The Expense Fund shall be the
20 fund from which the expenses of the administration of the
21 retirement system shall be paid, exclusive of amounts payable
22 as retirement allowances and as other benefits provided in
23 this chapter. In addition thereto and on account of each
24 member of the retirement system, there shall be paid monthly
25 by the employer an amount equal to a certain percentage of the
26 earnable compensation of each member for the administrative
27 expenses of the retirement system. The percentage rate of such

1 contribution shall be fixed by the Board of Control on the
2 basis of the cost exclusive of that provided by interest not
3 returnable. Any amounts credited to the accounts of the
4 members withdrawing before retirement and not returnable under
5 the provisions of subsection (c) of Section 36-27-16 shall be
6 credited to the Expense Fund.

7 "(e) Employer's contributions. For each biennium
8 beginning October 1, 1965, each employer shall pay to the
9 retirement system the rates provided in this section and
10 thereafter, at least 30 days preceding October 1 of each
11 fiscal year, the Board of Control shall certify to the chief
12 fiscal officer of each employer the percentage rates of
13 earnable compensation of the members required to be paid to
14 the retirement system in accordance with subsections (c) and
15 (d) of this section.

16 "The employer's contribution on account of the
17 membership of employees whose salaries are paid in whole or in
18 part from funds derived from federal grants shall be paid from
19 funds derived from the federal grants in accordance with
20 statutes governing the administration of the grants and in
21 proportion to salaries paid therefrom. At such time and in
22 such manner as may be required, the Board of Control shall
23 certify to each department of state receiving a federal grant
24 the amount due and payable from the grant as the employer's
25 contribution to the retirement system on account of the
26 membership of the department whose salaries are paid in whole
27 or in part from funds derived from such federal grants. The

1 fiscal agent of the department shall authorize the state
2 Comptroller to draw a warrant or warrants in payment of the
3 amount certified as due and payable from federal grants.

4 "(f) Appropriations. There is hereby appropriated
5 annually from the fund from which salaries of the employees of
6 each employer are paid the amounts sufficient to carry out the
7 provisions of this section. In the case of those departments
8 supported wholly by transfers from other state funds, there is
9 hereby appropriated from the supporting funds such additional
10 amounts as may be necessary to pay the employer contribution
11 of each department so supported in the same proportion as the
12 other state funds contribute to the support and maintenance of
13 such department.

14 "(g) Employer cost provided for in this article
15 together with member contributions required under this article
16 shall be paid to the Employees' Retirement System on the first
17 day of the month following the month in which the related
18 member salary is earned. Delinquent accounts shall accrue
19 interest at the actuarial assumed investment rate beginning 30
20 days after the original due date. The member contributions for
21 each member shall be reported to the Employees' Retirement
22 System in a format prescribed by the Employees' Retirement
23 System.

24 "§36-27-59.

25 "(a) When used in this section, the following terms
26 shall have the following meanings, unless the context clearly
27 indicates otherwise:

1 "(1) CORRECTIONAL OFFICER. A full-time correctional
2 officer who is certified as a correctional officer by the
3 Alabama Peace Officers' Standards and Training Commission.

4 "(2) FIREFIGHTER. A full-time firefighter employed
5 with the State of Alabama, a municipal fire department, or a
6 fire district who has a level one minimum standard
7 certification by the Firefighters Personnel Standards and
8 Education Commission, or a firefighter employed by the Alabama
9 Forestry Commission who has been certified by the State
10 Forester as having met the wild land firefighter training
11 standard of the National Wildfire Coordinating Group.

12 "(3) LAW ENFORCEMENT OFFICER. A full-time law
13 enforcement officer, not covered as a state policeman,
14 employed with any state agency, department, board, commission,
15 or institution or a full-time law enforcement officer employed
16 by a local unit of the Employees' Retirement System under
17 Section 36-27-6 who is certified as a law enforcement officer
18 by the Alabama Peace Officers' Standards and Training
19 Commission.

20 "(b) (1) Any firefighter, law enforcement officer, or
21 correctional officer covered under the Employees' Retirement
22 System or the Teachers' Retirement System as a Tier I plan
23 member, upon attainment of the requisite years of creditable
24 service or who otherwise qualifies for service or disability
25 retirement, shall be awarded one year of hazardous duty time
26 for every five years of service as a firefighter, a law
27 enforcement officer, or a correctional officer provided that

1 the person has made the additional contribution provided in
2 subdivision (2) or paid the additional contribution required
3 in subsection (c) for each year of service used in determining
4 hazardous duty time for the person. Proportional credit shall
5 be awarded for any period of service less than five years.

6 "(2) Effective January 1, 2001, and each pay period
7 thereafter, each active employee who is a firefighter, law
8 enforcement officer, or correctional officer, as defined in
9 subsection (a), shall contribute to the Teachers' or
10 Employees' Retirement System of Alabama six percent of his or
11 her earnable compensation. For all pay dates beginning on or
12 after October 1, 2011, each active employee who is a
13 firefighter, law enforcement officer, or correctional officer,
14 as defined in subsection (a), except those employees
15 participating pursuant to Section 36-27-6, shall contribute to
16 the Teachers' or Employees' Retirement System of Alabama eight
17 and one-quarter percent (8.25%) of his or her earnable
18 compensation. For all pay dates beginning on or after October
19 1, 2012, each active employee who is a Tier I plan member and
20 who is a firefighter, law enforcement officer, or correctional
21 officer, as defined in subsection (a), except those employees
22 participating pursuant to Section 36-27-6, shall contribute to
23 the Teachers' or Employees' Retirement System of Alabama eight
24 and one-half percent (8.5%) of his or her earnable
25 compensation. For all pay dates beginning on or after October
26 1, 2021, each active employee who is a Tier II plan member and
27 who is a firefighter, law enforcement officer, or correctional

1 officer, as defined in subsection (a), shall contribute to the
2 Teachers' or Employees' Retirement System of Alabama eight
3 percent (8%) of his or her earnable compensation. Any employer
4 participating under Section 36-27-6, by adoption of a
5 resolution, may elect for the increases in employee
6 contributions provided by Act 2011-676 to be withheld from the
7 earnable compensation of employees of the employer.

8 "(c) Any member of the Employees' Retirement System
9 or the Teachers' Retirement System eligible under subsection
10 (b) may receive credit for his or her eligible prior service
11 provided the member pays to the Secretary-Treasurer of the
12 Employees' Retirement System or the Secretary-Treasurer of the
13 Teachers' Retirement System one percent of his or her current
14 annual earnable compensation or previous year's annual
15 earnable compensation, whichever is higher, for each year of
16 claimed credit within two years of January 1, 2001, except
17 that any firefighter employed by the Alabama Forestry
18 Commission shall make such payment within two years of
19 December 28, 2001. Any member participating in the Employees'
20 Retirement System under Section 36-27-6, who has eligible
21 prior service under this section and who also had no prior
22 eligibility to purchase prior service credit under this
23 subsection, may purchase prior service credit under this
24 section at the same rate provided in subsection (b) within one
25 year of the effective date of his or her enrollment with the
26 Employees' Retirement System or within one year of August 1,
27 2004. The member may purchase his or her claimed credit in

1 increments of five years, unless the total service credit is
2 less than five years, in which case the service shall be
3 purchased in its entirety. The member shall provide
4 certification from each employing agency, on forms prescribed
5 by the Teachers' or Employees' Retirement System, of each year
6 of claimed service, as a prerequisite to payment under this
7 section.

8 ~~"(d) The provisions of this section shall not apply~~
9 ~~to any Tier II plan member."~~

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