

1 SB188  
2 216774-1  
3 By Senator Elliott  
4 RFD: Finance and Taxation General Fund  
5 First Read: 03-FEB-22

8 SYNOPSIS: Under existing law, a retired public  
9 employee is permitted to return to certain limited  
10 compensated service with any employer participating  
11 in the Teachers' Retirement System, Employees'  
12 Retirement System, or Judicial Retirement Fund  
13 without suspension of his or her retirement  
14 allowance.

15 This bill would lift these restrictions for  
16 retirees who have drawn retirement benefits for 12  
17 consecutive months without performing services for  
18 compensation with participating employers.

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT

23  
24 Relating to the Retirement Systems of Alabama; to  
25 amend Sections 16-25-14 and 36-27-16, as amended by Act  
26 2021-270, 2021 Regular Session, to require an individual  
27 retired under the Teachers' Retirement System, Employees'

1 Retirement System, or Judicial Retirement Fund to draw his or  
2 her retirement benefits for 12 consecutive months before  
3 returning to compensated work for a participating employer;  
4 and to repeal Sections 16-25-26, 29-4-6, and 36-27-8.2, Code  
5 of Alabama 1975, authorizing certain retired public employees  
6 to return to work for participating employers.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 16-25-14 and 36-27-16, as  
9 amended by Act 2021-270, 2021 Regular Session, are amended to  
10 read as follows:

11 "§16-25-14.

12 "(a) (1) Any Tier I plan member who withdraws from  
13 service upon or after attainment of age 60 and any Tier II  
14 plan member who withdraws from service upon or after  
15 attainment of age 62, or in the case of a Tier II plan member  
16 who is a correctional officer, firefighter, or law enforcement  
17 officer as defined in Section 36-27-59, who withdraws from  
18 service upon or after attainment of age 56 with at least ~~ten~~  
19 10 years of creditable service as a correctional officer,  
20 firefighter, or law enforcement officer may retire upon  
21 written application to the Board of Control setting forth at  
22 what time, not less than 30 days nor more than 90 days  
23 subsequent to the execution and filing thereof, he or she  
24 desires to be retired; provided, that any such member who  
25 became a member on or after October 1, 1963, shall have  
26 completed 10 or more years of creditable service.

1           "(2) Any Tier I plan member who has attained age 60  
2 and any Tier II plan member who has attained age 62, or in the  
3 case of a Tier II plan member who is a correctional officer,  
4 firefighter, or law enforcement officer as defined in Section  
5 36-27-59, who has attained age 56 with at least ~~ten~~ 10 years  
6 of creditable service as a correctional officer, firefighter,  
7 or law enforcement officer and has previously withdrawn from  
8 service may retire upon written application to the Board of  
9 Control setting forth at what time, not less than 30 days nor  
10 more than 90 days subsequent to the execution and filing  
11 thereof, he or she desires to be retired; provided, that the  
12 member shall have completed at the time for his or her  
13 withdrawal from service the requirements established by the  
14 Board of Control for eligibility for deferred benefits  
15 pursuant to Section 16-25-3.

16           "(3) Any person who is presently covered or is  
17 eligible to be covered under the Employees' Retirement System  
18 of Alabama or the Teachers' Retirement System of Alabama and  
19 who, prior to such coverage or eligibility for coverage,  
20 served as head of any Alabama county's public library service  
21 department shall have credited to him or her one year of  
22 creditable service for each year served as such head, not to  
23 exceed 12 years; provided, that such person shall pay into the  
24 retirement system the employee's part of the cost or  
25 contribution based on the salary paid to such person during  
26 the time of his or her service in the above capacity, with

1 such cost or contribution to be calculated at the percent or  
2 rate in effect on October 1, 1973.

3 "(4) Any Tier I plan member of the Teachers'  
4 Retirement System of Alabama, who withdraws from service after  
5 the completion of at least 25 years of creditable service, may  
6 retire upon written application to the Board of Control of the  
7 Teachers' Retirement System setting forth at what time, not  
8 less than 30 days nor more than 90 days subsequent to the  
9 execution and filing thereof, he or she desires to be retired;  
10 provided, that any such member who became a Tier I plan member  
11 on or after October 1, 1963, shall have completed 10 or more  
12 years of creditable service.

13 "(b) Upon retirement from service, a Tier I plan  
14 member shall receive a service retirement allowance which  
15 shall consist of:

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

19 "(2) A pension which shall be equal to the annuity  
20 allowable at the age of retirement, but not to exceed an  
21 annuity allowable at age 65 computed on the basis of  
22 contributions made prior to the attainment of age 65; and

23 "(3) If he or she has a prior service certificate in  
24 full force and effect, an additional pension which shall be  
25 equal to the annuity which would have been provided at age of  
26 retirement, but not to exceed an annuity allowable at age 65  
27 by twice the contributions which he or she would have made

1 during the period of prior service with which he or she is  
2 credited had the system been in operation and had he or she  
3 contributed thereunder. In lieu of a determination of the  
4 actual compensation of the members that was received during  
5 such prior service, the Board of Control may use for the  
6 purposes of this chapter the compensation rates which, if they  
7 had progressed with the rates of salary increase shown in the  
8 tables as prescribed in subsection (o) of Section 16-25-19,  
9 would have resulted in the same average salary of the member  
10 for the five years immediately preceding the date of  
11 establishment as the records show the member actually  
12 received.

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

18 "(1) Two and one-eightieth percent of the member's  
19 average final compensation multiplied by the number of years  
20 of his or her creditable service; or

21 "(2) If he or she became a member before October 1,  
22 1971, ~~\$72~~ seventy-two dollars (\$72) multiplied by the number  
23 of years of his or her creditable service not in excess of 25  
24 years.

25 "Notwithstanding, a member who retired prior to  
26 October 1, 1971, under service retirement shall receive ~~\$120~~  
27 one hundred twenty dollars (\$120) multiplied by the number of

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

3 "(d) Upon retirement from service, a Tier II plan  
4 member shall receive a service retirement allowance which  
5 shall consist of an annuity which shall be the actuarial  
6 equivalent of the member's accumulated contributions at the  
7 time of retirement and a pension which, when added to the  
8 member's annuity, shall be equal to one and sixty-five  
9 hundredths percent (1.65%) of the member's average final  
10 compensation multiplied by the number of years of creditable  
11 service. Notwithstanding the foregoing, the service retirement  
12 allowance shall not exceed eighty percent (80%) of the  
13 member's average final compensation.

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

1 90 days next following the date of filing such an application;  
2 provided, that the medical board, after a medical examination  
3 of such member, shall certify that the member is totally and  
4 permanently mentally or physically incapacitated from regular  
5 and substantial gainful employment, and that such member  
6 should be retired.

7 "(f) Upon retirement for disability, a Tier I plan  
8 member shall receive a service retirement allowance if he or  
9 she has attained age 60 or if any law or part of any law  
10 pertaining to retirement under the Teachers' Retirement System  
11 of Alabama provides for service retirement after the  
12 completion of 25 years of creditable service and the member  
13 has completed 25 years of creditable service; otherwise, he or  
14 she shall receive a disability retirement allowance which  
15 shall consist of:

16 "(1) An annuity which shall be the actuarial  
17 equivalent of his or her accumulated contributions at the time  
18 of retirement; and

19 "(2) A pension which shall be equal to the pension  
20 that would have been payable under subdivisions (2) and (3) of  
21 subsection (b) of this section upon service retirement at age  
22 60 had the member continued in service to that age without  
23 change in compensation.

24 "The annual disability retirement pension shall not  
25 be less than an amount which when added to his or her annuity  
26 is equal to the greater of the following amounts:



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

4            "b. If he or she became a member before October 1,  
5 1971, ~~\$54~~ fifty-four dollars (\$54) multiplied by the number of  
6 years of his or her creditable service not in excess of 25  
7 years.

8            "Notwithstanding, a member who retired prior to  
9 October 1, 1971, for disability shall receive ~~\$90~~ ninety  
10 dollars (\$90) multiplied by the number of years of his or her  
11 creditable service not in excess of 25 years.

12           " (g) Upon retirement for disability, a Tier II plan  
13 member shall receive a service retirement allowance if the  
14 member has attained age 62, or in the case of a Tier II plan  
15 member who is a correctional officer, firefighter, or law  
16 enforcement officer as defined in Section 36-27-59, if the  
17 member has attained age 56 with at least ~~ten~~ 10 years of  
18 creditable service as a correctional officer, firefighter, or  
19 law enforcement officer, otherwise, the member shall receive a  
20 disability retirement allowance which shall be equal to one  
21 and sixty-five hundredths percent (1.65%) of the member's  
22 average final compensation multiplied by the number of years  
23 of creditable service.

24           " (h) (1) Once each year during the first five years  
25 following the retirement of a member on a disability  
26 retirement allowance and once in every three-year period  
27 thereafter, the Board of Control may and upon his or her

1 application shall require any disability beneficiary who has  
2 not yet attained age 60 for a Tier I plan member or age 62 for  
3 a Tier II plan member to undergo a medical examination, such  
4 examination to be made at the place of residence of such  
5 beneficiary or other place mutually agreed upon by a physician  
6 of or designated by the medical board. Should any disability  
7 beneficiary who has not yet attained age 60 for a Tier I plan  
8 member or age 62 for a Tier II plan member refuse to submit to  
9 such medical examination, his or her pension may be  
10 discontinued until his or her withdrawal of such refusal, and  
11 should his refusal continue for one year, all his or her  
12 rights in and to his or her pension may be revoked by the  
13 Board of Control; provided, that these requirements relative  
14 to the medical examination shall not apply in the case of a  
15 Tier II plan member who is a correctional officer,  
16 firefighter, or law enforcement officer as defined in Section  
17 36-27-59 retired for disability and who has attained age 56  
18 with at least ~~ten~~ 10 years of creditable service as a  
19 correctional officer, firefighter, or law enforcement officer.

20 "(2) Should the medical board report and certify to  
21 the Board of Control that a disability beneficiary who is a  
22 Tier I plan member is engaged in or is able to engage in a  
23 gainful occupation paying more than the difference between his  
24 or her retirement allowance and his average final compensation  
25 and should the Board of Control concur in such report, then  
26 the amount of his or her pension shall be reduced to an amount  
27 which, together with his or her annuity and the amount

1       earnable by him or her, shall equal the amount of his or her  
2       average final compensation. Should his or her earning capacity  
3       be later changed, the amount of his or her pension may be  
4       further modified; provided, that the new pension shall not  
5       exceed the amount of the pension originally granted nor an  
6       amount which, when added to the amount earnable by the  
7       beneficiary together with his or her annuity, equals the  
8       amount of his or her average final compensation.

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

15               "(i) (1) Should a member cease to be a teacher,  
16       except by death or by retirement under the provisions of this  
17       chapter, the contributions standing to the credit of his or  
18       her individual account in the Annuity Savings Fund shall be  
19       paid to him or her upon demand, and in addition to such  
20       payment there shall be paid five-tenths of the interest  
21       accumulations standing to the credit of his or her individual  
22       account if he or she shall have not less than three but less  
23       than 16 years of membership service, six-tenths of such  
24       interest accumulations if he or she shall have not less than  
25       16 but less than 21 years of membership service, seven-tenths  
26       of such interest accumulations if he or she shall have not  
27       less than 21 but less than 26 years of membership service, and

1 eight-tenths of such interest accumulations if he or she shall  
2 have not less than 26 years of membership service.

3 "(2) In case of the death of a member eligible for  
4 service retirement pursuant to subsection (a) of this section,  
5 an allowance shall be paid to the surviving spouse, or to such  
6 other person who the member shall have designated, in an  
7 amount that would have been payable if the member had retired  
8 immediately prior to his or her death and had elected Option  
9 3, as set forth in subsection (j) or, alternatively, if the  
10 surviving spouse or other designee desires, he or she may  
11 choose to receive, in lieu of the allowance provided under  
12 Option 3, the accumulated contributions of the member plus an  
13 amount equal to the accumulated contributions of the member  
14 not to exceed ~~\$5,000~~ five thousand dollars (\$5,000) or the  
15 accumulated contributions of the member plus the benefit  
16 provided by Section 36-27B-3 if a benefit is payable under  
17 such section. For purposes of this subsection only, hazardous  
18 duty time, as set forth in subdivision (b)(1) of Section  
19 36-27-59, may be used in calculating the requisite years of  
20 service for firefighters, law enforcement officers, and  
21 correctional officers even if the member has not otherwise  
22 attained 25 years of creditable service.

23 "(3) Upon the death of a member on account of whom  
24 no survivor allowance is payable under subdivision (2) of this  
25 subsection, the accumulated contributions of the member plus  
26 an amount equal to the accumulated contributions not to exceed  
27 ~~\$5,000~~ five thousand dollars (\$5,000) or the accumulated

1 contributions of the member plus the benefit provided by  
2 Section 36-27B-3 if a benefit is payable under such section  
3 shall be paid to his or her estate or to such person as he or  
4 she shall have nominated by written designation duly executed  
5 and filed with the Board of Control.

6 "(j) With the provision the election of an option  
7 shall be effective on the effective date of retirement, any  
8 member may elect prior to retirement to receive, in lieu of  
9 his or her retirement allowance payable throughout life, the  
10 actuarial equivalent at that time of his or her retirement  
11 allowance in a reduced retirement allowance payable throughout  
12 life with the provision that:

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

20 "(2) OPTION 2. Upon his or her death, his or her  
21 reduced retirement allowance shall be continued throughout the  
22 life of and paid to the 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;

25 "(3) OPTION 3. Upon his or her death, one half of  
26 his or her reduced retirement allowance shall be continued  
27 throughout the life of and paid to the person as he or she

1 shall nominate by written designation duly acknowledged and  
2 filed with the Board of Control at the time of his or her  
3 retirement; or

4 "(4) OPTION 4. Some other benefit or benefits shall  
5 be paid either to the member or to the person or persons as he  
6 or she shall nominate; provided, that such other benefit or  
7 benefits, together with the reduced retirement allowance,  
8 shall be certified by the actuary to be of equivalent  
9 actuarial value to his or her retirement allowance and shall  
10 be approved by the Board of Control.

11 "(5) OPTION 5. At the time of retirement, he or she  
12 shall receive a partial lump sum distribution as a single  
13 payment not to exceed the sum of 24 months of the maximum  
14 monthly retirement allowance the member could receive. This  
15 option may be elected in addition to the election of another  
16 option under this subsection and the further reduced monthly  
17 retirement allowance shall be calculated in accordance with  
18 the selected option. This option shall not be available to a  
19 member who is receiving a disability retirement.

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

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

14 ~~"(l)~~(k) (1) All retirement allowance payments due on  
15 or after October 1, 1975, to members who retired prior to  
16 October 1, 1975, shall be redetermined as if the provisions of  
17 subsections (b) and (e) of this section which became effective  
18 on said date were in effect at the time the member retired;  
19 provided, that the annual retirement allowance of any member  
20 who retired on or before January 1, 1956, shall be not less  
21 than ~~\$132~~ one hundred thirty-two dollars (\$132) multiplied by  
22 the number of years of his or her creditable service not in  
23 excess of 30 years in the case of service retirement or ~~\$99~~  
24 ninety-nine dollars (\$99) multiplied by the number of years of  
25 creditable service not in excess of 30 years in the case of  
26 disability retirements. Any increase provided in the  
27 retirement allowance payment under this subsection for a

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

8 "(2) Any person who served at least 30 years as a  
9 teacher in the public schools of Alabama and was never a  
10 member of the system and who, prior to October 1, 1963, was in  
11 receipt of a benefit for old age assistance pursuant to  
12 subsections (1) and (2) of Section 1 of Act 116, approved  
13 August 24, 1959, shall be entitled to receive an annual  
14 retirement allowance of ~~\$3,960~~ three thousand nine hundred  
15 sixty dollars (\$3,960) from the system, effective as of  
16 October 1, 1973.

17 "(3) Prior to October 31, 1975, any beneficiary may  
18 elect to leave on deposit with the system all or a specified  
19 part of any increase in his or her monthly retirement  
20 allowance payments arising in accordance with subdivision (1)  
21 or (2) of this subsection. The portion of each monthly payment  
22 left in the system in accordance with such election shall be  
23 credited, together with regular interest thereon, to the  
24 individual account of such beneficiary. Upon the death of such  
25 beneficiary, the total amount standing to his or her credit,  
26 including regular interest to the date of death, shall be paid  
27 in a lump sum to his or her legal representative or to such



1 person as he or she shall have nominated by written  
2 designation duly acknowledged and filed with the Board of  
3 Control.

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

17 "~~(n)~~ (m) Notwithstanding any provision of this  
18 section to the contrary, if a retired member who is receiving  
19 a monthly benefit allowance provided under Option 2, 3, or 4  
20 divorces his or her designated beneficiary, the member may  
21 designate a replacement beneficiary for the beneficiary to  
22 become effective two years after the date of designation of  
23 the replacement beneficiary and an actuarial adjustment in the  
24 monthly benefit allowance of the member to cover any cost  
25 associated with designating a replacement beneficiary shall be  
26 reflected thereafter in the monthly benefit allowance received  
27 by the member, commencing with the first benefit allowance

1 check received by the member following the date of designation  
2 of the replacement beneficiary.

3 "~~(o)~~(n) Any future act to increase the retirement  
4 age for Tier II plan members above the age of 62 shall require  
5 a two-thirds vote of the elected membership of each house of  
6 the Legislature.

7 "§36-27-16.

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

10 "a. Any Tier I plan member who withdraws from  
11 service upon or after attainment of age 60 and any Tier II  
12 plan member who withdraws from service upon or after  
13 attainment of age 62 may retire upon written application to  
14 the Board of Control setting forth at what time, not less than  
15 30 days nor more than 90 days subsequent to the execution and  
16 filing thereof, he or she desires to be retired; provided,  
17 that any such member who became a member on or after October  
18 1, 1963, shall have completed 10 or more years of creditable  
19 service; provided further, that a Tier I plan member employed  
20 as a state policeman shall be eligible to file application for  
21 service retirement upon attaining age 52 and a Tier II plan  
22 member employed as a state policeman or employed as a  
23 correctional officer, firefighter, or law enforcement officer  
24 as defined in Section 36-27-59 with at least ~~ten~~ 10 years of  
25 creditable service as a correctional officer, firefighter, or  
26 law enforcement officer shall be eligible to file application  
27 for service retirement upon attaining age 56.

1            "b. Any Tier I plan member who has attained age 60,  
2 or age 52 in the case of a state policeman and any Tier II  
3 plan member who has attained age 62, or age 56 in the case of  
4 a state policeman or in the case of a correctional officer,  
5 firefighter, or law enforcement officer as defined in Section  
6 36-27-59 who has at least ~~ten~~ 10 years of creditable service  
7 as a correctional officer, firefighter, or law enforcement  
8 officer, and has previously withdrawn from service may retire  
9 upon written application to the Board of Control setting forth  
10 at what time, not less than 30 days nor more than 90 days  
11 subsequent to the execution and filing thereof, he or she  
12 desires to be retired; provided, the member shall have at the  
13 time of his or her withdrawal from service completed the age  
14 and service requirements established by the Board of Control  
15 for eligibility for deferred benefits; provided, that such  
16 minimum number of years of creditable service shall not be  
17 less than 10 years nor more than 25 years.

18            "c. In addition to any law or part of law relating  
19 to service retirement under the Employees' Retirement System  
20 of Alabama, any Tier I plan member of the Employees'  
21 Retirement System who withdraws from service after completion  
22 of not less than 25 years of creditable service may retire  
23 without a reduction in retirement allowance upon written  
24 application to the Board of Control of the Employees'  
25 Retirement System setting forth the first day of which month,  
26 not less than 30 days or more than 90 days subsequent to the  
27 execution and filing thereof, he or she desires to be retired,

1 provided that no person whose employer participates in the  
2 Employees' Retirement System under Section 36-27-6 shall be  
3 entitled to the benefits provided in this paragraph unless  
4 such employer elects to come under the provisions of the  
5 paragraph. Any employer making such election must bear the  
6 cost of such benefit.

7 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

8 "a. Upon retirement from service a Tier I plan  
9 member shall receive a service retirement allowance which  
10 shall consist of:

11 "1. An annuity which shall be the actuarial  
12 equivalent of his or her accumulated contributions at the time  
13 of his or her retirement; except, that in the case of a state  
14 policeman who has completed 20 years of creditable service as  
15 a state policeman who retires after age 56 but prior to age  
16 60, the annuity shall be equal to the annuity that would have  
17 been payable upon service retirement at age 60 had the member  
18 continued in service to age 60 without change in compensation;

19 "2. A pension which shall be equal to the annuity  
20 allowance at age of retirement, but not to exceed an annuity  
21 allowable at age 65, computed on the basis of contributions  
22 made prior to attainment of age 65; except, that in the case  
23 of a state policeman who has completed 20 years of creditable  
24 service as a state policeman who retires after age 56 but  
25 prior to age 60, the pension shall be equal to the annuity  
26 that he or she would have received had he or she contributed  
27 to age 60 without change in compensation; and

1           "3. An additional pension, if he or she has a prior  
2 service certificate in full force and effect, which shall be  
3 equal to the annuity which would have been provided at the age  
4 of retirement, but which shall not exceed an annuity allowable  
5 at age 65 by twice the contributions which he or she would  
6 have made during the period of prior service with which he or  
7 she is credited had the system been in operation and had he or  
8 she contributed thereunder; except, that in case of a state  
9 policeman who has completed 20 years of creditable service as  
10 a state policeman who retired after age 56 but prior to age  
11 60, an additional pension, if he or she has a prior service  
12 certificate in full force and effect, which shall be equal to  
13 the annuity which would have been provided at age 60, but  
14 which shall not exceed an annuity allowable at age 60 by twice  
15 the contributions which he or she would have made during the  
16 period of prior service with which he or she is credited had  
17 the system been in operation and had he or she contributed  
18 thereunder.

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

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

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

4           "3. An additional pension, if he or she has a prior  
5 service certificate in full force and effect, which shall be  
6 equal to the annuity which would have been provided at the age  
7 of retirement, but which shall not exceed an annuity allowable  
8 at the age of retirement plus four years by twice the  
9 contributions which he or she would have made during the  
10 period of prior service with which he or she is credited had  
11 the system been in operation and had he or she contributed  
12 thereunder. In lieu of a determination of the actual  
13 compensation of a member that was received during such prior  
14 service, the Board of Control may use for the purpose of this  
15 article the compensation rate which, if it had progressed with  
16 the rates of salary increase shown in the tables as prescribed  
17 in subsection (n) of Section 36-27-23, would have resulted in  
18 the same average salary of the member for the five years  
19 immediately preceding the date of establishment as the records  
20 show the member actually received.

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

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

4           "2. If he or she became a member before October 1,  
5 1965, ~~\$72.00~~ seventy-two dollars (\$72) multiplied by the  
6 number of years of his or her creditable service not in excess  
7 of 25 years.

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

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

22           "2. If he or she became a member before October 1,  
23 1965, ~~\$86.40~~ eighty-six dollars forty cents (\$86.40)  
24 multiplied by the number of years of his or her creditable  
25 service not in excess of 25 years; provided, however, that if  
26 such member has completed 20 years of creditable service as a  
27 state policeman and has not attained age 60 at the time of

1 retirement, the pension shall be determined as provided in  
2 this subparagraph on the basis of the number of years of  
3 creditable service which he or she would have had if he or she  
4 had remained in service for four years, except that, in the  
5 case of those state policemen retiring at age 56 or after, the  
6 number of years in determining the pension shall not exceed  
7 the number of years of creditable service which he or she  
8 would have had if he or she had remained in service to age 60.

9 "e. Upon retirement from service, a Tier II plan  
10 member who is not employed as a state policeman shall receive  
11 a service retirement allowance which shall consist of an  
12 annuity which shall be the actuarial equivalent of the  
13 member's accumulated contributions at the time of retirement  
14 and a pension which, when added to the member's annuity, shall  
15 be equal to one and sixty-five hundredths percent (1.65%) of  
16 the member's average final compensation multiplied by the  
17 number of years of creditable service. Notwithstanding the  
18 foregoing, the service retirement allowance shall not exceed  
19 eighty percent (80%) of the member's average final  
20 compensation.

21 "f. Upon retirement from service, a Tier II plan  
22 member who is employed as a state policeman shall receive a  
23 service retirement allowance which shall consist of an annuity  
24 which shall be the actuarial equivalent of the member's  
25 accumulated contributions at the time of retirement and a  
26 pension which, when added to the member's annuity, shall be  
27 equal to two and three-eighths percent (2.375%) of the



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

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

19 "h. The annual service retirement pension payable to  
20 any state employee who had attained age 60 on or before  
21 October 1, 1945, who declined membership in the Employees'  
22 Retirement System of Alabama in the manner prescribed in  
23 Section 36-27-4 and who retires as a state employee after  
24 completing a minimum of 15 years' service shall be ~~\$72.00~~  
25 seventy-two dollars (\$72) multiplied by the number of years of  
26 his or her service not in excess of 25 years.

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

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

23                  "b. Without regard to the number of years of  
24                  creditable service, a member employed as a state policeman, a  
25                  municipal police officer or a deputy sheriff, or a member  
26                  employed as a state, municipal, or county firefighter who is  
27                  not covered through his or her current employer under the

1 United States Social Security Act, who as a result of his or  
2 her employment, in the line of duty and not as a result of his  
3 or her own misconduct, shall become permanently and totally  
4 disabled to the extent that he or she cannot perform his or  
5 her duties or duties of a less strenuous nature, as an  
6 employee of the State of Alabama or as an employee of an  
7 employer participating under the provisions of Section  
8 36-27-6, shall be retired on a disability retirement  
9 allowance, not less than 30 nor more than 90 days next  
10 following the date of filing of such application, provided  
11 that the medical board, after a medical examination of such  
12 member shall certify that such member is mentally or  
13 physically incapacitated for the further performance of duty,  
14 that such incapacity is likely to be permanent, and that such  
15 member should be retired.

16 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

17 "a. Upon retirement for disability a member shall  
18 receive a service retirement allowance if he or she is a Tier  
19 I plan member and he or she has attained age 60 or if he or  
20 she is a Tier II plan member and he or she has attained age  
21 62, or if any law or part of any law pertaining to retirement  
22 under the Employees' Retirement System of Alabama provides for  
23 service retirement after the completion of 25 years of  
24 creditable service without a reduction in the retirement  
25 allowance and the member has completed 25 years of creditable  
26 service, or, in the case of a state policeman, if he or she is  
27 a Tier I plan member and he or she has attained age 52 or, in

1 the case of a state policeman or a correctional officer,  
2 firefighter, or law enforcement officer as defined in Section  
3 36-27-59 with at least ~~ten~~ 10 years of creditable service as a  
4 correctional officer, firefighter, or law enforcement officer,  
5 if he or she is a Tier II plan member and he or she has  
6 attained age 56; otherwise, he or she shall receive a  
7 disability retirement allowance which shall consist of:

8 "1. An annuity which shall be the actuarial  
9 equivalent of his or her accumulated contributions at the time  
10 of his or her retirement;

11 "2. A pension which shall be equal to the pension  
12 that would have been payable under subparagraphs 2 and 3 of  
13 paragraph a. of subdivision (2) of subsection (a) of this  
14 section upon service retirement at age 65 had the member  
15 continued in service to that age without change in  
16 compensation.

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

22 "1. Two and one-eightieth percent of the member's  
23 average final compensation multiplied by the number of years  
24 of creditable service.

25 "2. If he or she became a member before October 1,  
26 1965, ~~\$54.00~~ fifty-four dollars (\$54) multiplied by the number

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

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

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

17 "2. If he or she became a member before October 1,  
18 1965, ~~\$64.80~~ sixty-four dollars eighty cents (\$64.80)  
19 multiplied by the number of years of his or her creditable  
20 service not in excess of 25 years.

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

26 "e. The annual disability retirement allowance  
27 payable to a Tier II plan member employed as a state policeman

1 shall be equal to two and three-eighths percent (2.375%) of  
2 the member's average final compensation multiplied by the  
3 number of years of creditable service.

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

17 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON  
18 ACCOUNT OF DISABILITY. Once each year during the first five  
19 years following the retirement of a member on a disability  
20 retirement allowance and once every three-year period  
21 thereafter, the Board of Control may, and upon his or her  
22 application shall, require any disability beneficiary who has  
23 not yet attained age 60 if the beneficiary is a Tier I plan  
24 member or age 62 if the beneficiary is a Tier II plan member  
25 to undergo a medical examination, such examination to be made  
26 at the place of residence of such beneficiary or other place  
27 mutually agreed upon by a physician or physicians of or

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

1 changed, the amount of his or her pension may be further  
2 modified; provided, that the new pension shall not exceed the  
3 amount of the pension originally granted nor an amount which,  
4 when added to the amount earnable by the beneficiary, together  
5 with this annuity exceeds the amount of his or her average  
6 final compensation.

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

13 "(c) Disposition of contributions and allowances  
14 upon death, etc., of member.

15 "(1) Should a member cease to be an employee except  
16 by death or by retirement under the provisions of this  
17 article, the contributions standing to the credit of his or  
18 her individual account in the Annuity Savings Fund shall be  
19 paid to him or her upon demand and, in addition to such  
20 payment, there shall be paid five-tenths of the interest  
21 accumulations standing to the credit of his or her individual  
22 account if he or she shall have not less than three but less  
23 than 16 years of membership service, six-tenths of such  
24 interest accumulations if he or she shall have not less than  
25 16 but less than 21 years of membership service, seven-tenths  
26 of such interest accumulations if he or she shall have not  
27 less than 21 but less than 26 years of membership service and



1 eight-tenths of such interest accumulations if he or she shall  
2 have not less than 26 years of membership service.

3 "(2) In case of the death of a member eligible for  
4 service retirement pursuant to subsection (a) of this section,  
5 an allowance shall be paid to the surviving spouse, or to such  
6 other person who the member shall have designated, in an  
7 amount that would have been payable if the member had retired  
8 immediately prior to his or her death and had elected Option  
9 3, as set forth in subsection (d) of this section or,  
10 alternatively, if the surviving spouse or other designee  
11 desires, he or she may choose to receive, in lieu of the  
12 allowance provided under Option 3, the accumulated  
13 contributions of the member plus an amount equal to the  
14 accumulated contributions of the member not to exceed  
15 ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated  
16 contributions of the member plus the benefit provided by  
17 Section 36-27B-3 if a benefit is payable under such section;

18 "(3) In case of the death of a Tier I plan member  
19 not eligible for service retirement, after completion of 25  
20 years of creditable service, an allowance shall be paid to the  
21 surviving spouse, or to such other person who the member shall  
22 have designated, in an amount that would have been payable if  
23 the member had retired for disability immediately prior to his  
24 or her death and had elected Option 3 as set forth in  
25 subsection (d) of this section or, alternatively, if the  
26 surviving spouse or other designee desires, he or she may  
27 choose to receive, in lieu of the allowance provided under

1 Option 3, the accumulated contributions of the member plus an  
2 amount equal to the accumulated contributions of the member  
3 not to exceed ~~\$5,000.00~~ five thousand dollars (\$5,000) or the  
4 accumulated contributions of the member plus the benefit  
5 provided by Section 36-27B-3 if a benefit is payable under  
6 such section. For purposes of this subsection only, hazardous  
7 duty time, as set forth in subdivision (b)(1) of Section  
8 36-27-59, may be used in calculating the requisite years of  
9 service for firefighters, law enforcement officers, and  
10 correctional officers even if the member has not otherwise  
11 attained 25 years of creditable service;

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

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

1 his or her retirement allowance in a reduced retirement  
2 allowance payable throughout life with the provisions that:

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

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

15 "(3) OPTION 3. Upon his or her death, one half of  
16 his or her reduced allowance shall be continued throughout the  
17 life of and paid to the 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; or

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

1           "(5) OPTION 5. At the time of retirement, he or she  
2 shall receive a partial lump sum distribution as a single  
3 payment not to exceed the sum of 24 months of the maximum  
4 monthly retirement allowance the member could receive. This  
5 option may be elected in addition to the election of another  
6 option under this subsection and the further reduced monthly  
7 retirement allowance shall be calculated in accordance with  
8 the selected option. This option shall not be available to a  
9 member who is receiving a disability retirement.

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

1 ~~to active service on a suspended allowance basis together with~~  
2 ~~the interest which would have been credited to the~~  
3 ~~contributions on account of such period of restoration up to~~  
4 ~~the date such contribution is made.~~

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

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

10 "(2) Any person who, prior to October 1, 1963, was  
11 in receipt of a benefit pursuant to Act No. 376, approved  
12 November 6, 1959, but was not a member of the system at the  
13 time of retirement shall not be entitled to receive an annual  
14 retirement allowance from the system, effective October 1,  
15 1971, as follows:

16 "a. If such person was retired on or before January  
17 1, 1956, an amount equal to ~~\$79.20~~ seventy-nine dollars twenty  
18 cents (\$79.20) multiplied by the number of years of his or her  
19 creditable service not in excess of 30 years.

20 "b. If such person was retired after January 1,  
21 1956, an amount equal to ~~\$72.00~~ seventy-two dollars (\$72)  
22 multiplied by the number of years of his or her creditable  
23 service not in excess of 25 years.

24 "(3) Prior to October 31, 1975, any beneficiary may  
25 elect to leave on deposit with the system all or a specified  
26 part of any increase in his or her monthly retirement  
27 allowance payments arising in accordance with subdivisions (1)

1 or (2) of this subsection over the monthly allowance which he  
2 or she was receiving prior to October 1, 1975. The portion of  
3 each monthly payment left in the system in accordance with  
4 such election shall be credited, together with regular  
5 interest thereon, to the individual account of such  
6 beneficiary. Upon the death of such beneficiary the total  
7 amount standing to his or her credit, including regular  
8 interest to the date of death, shall be paid in a lump sum to  
9 his or her legal representatives or to such person as he or  
10 she shall have nominated by written designation duly  
11 acknowledged and filed with the Board of Control.

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

25 "~~(h)~~ (g) Notwithstanding any provision of this  
26 section to the contrary, if a retired member who is receiving  
27 a monthly benefit allowance provided under Option 2, 3, or 4

1 divorces his or her designated beneficiary, the member may  
2 designate a replacement beneficiary for the beneficiary to  
3 become effective two years after the date of designation of  
4 the replacement beneficiary and an actuarial adjustment in the  
5 monthly benefit allowance of the member to cover any cost  
6 associated with designating a replacement beneficiary shall be  
7 reflected thereafter in the monthly benefit allowance received  
8 by the member, commencing with the first benefit allowance  
9 check received by the member following the date of designation  
10 of the replacement beneficiary.

11 ~~(i)~~(h) Any future act to increase the retirement  
12 age for Tier II plan members above the age of 62 shall require  
13 a two-thirds vote of the elected membership of each house of  
14 the Legislature."

15 Section 2. (a) If any person retired under the  
16 Teachers' Retirement System performs duties in any capacity  
17 for compensation for an employer participating in the  
18 Teachers' Retirement System, Employees' Retirement System, or  
19 Judicial Retirement Fund, his or her retirement allowance  
20 shall be suspended until termination of employment or  
21 contract, unless he or she has drawn his or her retirement  
22 benefit for 12 consecutive months and has not performed  
23 services for compensation with any employer participating in  
24 the Teachers' Retirement System, Employees' Retirement System,  
25 or Judicial Retirement Fund during that period. The person may  
26 not contribute to the retirement system and may not earn any



1 additional service credit during the period of employment or  
2 contract.

3 (b) Any person retired under the Teachers'  
4 Retirement System who is serving as an elected official may  
5 serve for compensation without suspension of benefits so long  
6 as the position is otherwise prohibited from participating in  
7 the Teachers' Retirement System, Employees' Retirement System,  
8 or Judicial Retirement Fund.

9 (c) An employer shall pay employer contributions, as  
10 provided by Section 16-25-21, Code of Alabama 1975, on all  
11 earnable compensation of an employee who is retired under the  
12 Teachers' Retirement System, Employees' Retirement System, or  
13 Judicial Retirement Fund, regardless of membership status.

14 (d) Any person retired under the Teachers'  
15 Retirement System, Employees' Retirement System, or Judicial  
16 Retirement Fund who is employed with an employer may become a  
17 member by suspending his or her retirement allowance and  
18 contributing to the retirement system as provided by Section  
19 16-25-21, Code of Alabama 1975.

20 (e) Any person retired under the Teachers'  
21 Retirement System as of the effective date of this act shall  
22 be presumed to have drawn his or her retirement benefit for 12  
23 consecutive months without performing services for  
24 compensation for any employer participating in the Teachers'  
25 Retirement System, Employees' Retirement System, or Judicial  
26 Retirement Fund during that period.

1           (f) This section shall not apply to any person who  
2 retired under the Teachers' Retirement System before the  
3 effective date of this act and is drawing his or her  
4 retirement benefit and participating in the Judicial  
5 Retirement Fund under Chapter 18, Title 12, Code of Alabama  
6 1975.

7           Section 3. (a) If any person retired under the  
8 Employees' Retirement System performs duties in any capacity  
9 for compensation for an employer participating in the  
10 Teachers' Retirement System, Employees' Retirement System, or  
11 Judicial Retirement Fund, his or her retirement allowance  
12 shall be suspended until termination of employment or  
13 contract, unless he or she has drawn his or her retirement  
14 benefit for 12 consecutive months and has not performed  
15 services for compensation with any employer participating in  
16 the Teachers' Retirement System, Employees' Retirement System,  
17 or Judicial Retirement Fund during that period. The person may  
18 not contribute to the retirement system and may not earn any  
19 additional service credit during the period of employment or  
20 contract.

21           (b) Any person retired under the Employees'  
22 Retirement System who is serving as an elected official may  
23 serve for compensation without suspension of benefits so long  
24 as the position is otherwise prohibited from participating in  
25 the Teachers' Retirement System, Employees' Retirement System,  
26 or Judicial Retirement Fund.

1 (c) An employer shall pay employer contributions, as  
2 provided by Section 36-27-24, Code of Alabama 1975, on all  
3 earnable compensation of an employee who is retired under the  
4 Teachers' Retirement System, Employees' Retirement System, or  
5 Judicial Retirement Fund, regardless of membership status.

6 (d) Any person retired under the Teachers'  
7 Retirement System, Employees' Retirement System, or Judicial  
8 Retirement Fund who is employed with an employer may become a  
9 member by suspending his or her retirement allowance and  
10 contributing to the retirement system as provided by Section  
11 36-27-24, Code of Alabama 1975.

12 (e) Any person retired under the Employees'  
13 Retirement System as of the effective date of this act shall  
14 be presumed to have drawn his or her retirement benefit for 12  
15 consecutive months without performing services for  
16 compensation for any employer participating in the Teachers'  
17 Retirement System, Employees' Retirement System, or Judicial  
18 Retirement Fund during that period.

19 (f) This section shall not apply to any person who  
20 retired under the Employees' Retirement System before the  
21 effective date of this act, is drawing his or her retirement  
22 benefit, and is participating in the Judicial Retirement Fund  
23 under Chapter 18, Title 12, Code of Alabama 1975.

24 Section 4. (a) If any person retired under the  
25 Judges' and Clerks' Plan of the Judicial Retirement Fund  
26 performs duties in any capacity for compensation for an  
27 employer participating in the Teachers' Retirement System,

1 Employees' Retirement System, or Judicial Retirement Fund, his  
2 or her retirement allowance shall be suspended until  
3 termination of employment or contract, unless he or she has  
4 drawn his or her retirement benefit for 12 consecutive months  
5 and has not performed services for compensation with any  
6 employer participating in the Teachers' Retirement System,  
7 Employees' Retirement System, or Judicial Retirement Fund  
8 during that period. The person may not contribute to the  
9 retirement system and may not earn any additional service  
10 credit during the period of employment or contract.

11 (b) Any person retired under the Judges' and Clerks'  
12 Plan who is serving as an elected official may serve for  
13 compensation without suspension of benefits so long as the  
14 position is otherwise prohibited from participating in the  
15 Teachers' Retirement System, Employees' Retirement System, or  
16 Judicial Retirement Fund.

17 (c) An employer shall pay employer contributions, as  
18 provided by Section 12-18-152, Code of Alabama 1975, on all  
19 earnable compensation of an employee who is retired under the  
20 Teachers' Retirement System, Employees' Retirement System, or  
21 Judicial Retirement Fund, regardless of membership status.

22 (d) Any person retired under the Teachers'  
23 Retirement System, Employees' Retirement System, or Judicial  
24 Retirement Fund who is employed as a judge or clerk with an  
25 employer may become a member by suspending his or her  
26 retirement allowance and contributing to the retirement system  
27 as provided by Section 12-18-152, Code of Alabama 1975.

1           (e) Any person retired under the Judges' and Clerks'  
2 Plan as of the effective date of this act shall be presumed to  
3 have drawn his or her retirement benefit for 12 consecutive  
4 months without performing services for compensation for any  
5 employer participating in the Teachers' Retirement System,  
6 Employees' Retirement System, or Judicial Retirement Fund  
7 during that period.

8           Section 5. (a) If any person retired under the  
9 District Attorneys' Plan of the Judicial Retirement Fund  
10 performs duties in any capacity for compensation for an  
11 employer participating in the Teachers' Retirement System,  
12 Employees' Retirement System, or Judicial Retirement Fund, his  
13 or her retirement allowance shall be suspended until  
14 termination of employment or contract, unless he or she has  
15 drawn his or her retirement benefit for 12 consecutive months  
16 and has not performed services for compensation with any  
17 employer participating in the Teachers' Retirement System,  
18 Employees' Retirement System, or Judicial Retirement Fund  
19 during that period. The person may not contribute to the  
20 retirement system and may not earn any additional service  
21 credit during the period of employment or contract.

22           (b) Any person retired under the District Attorneys'  
23 Plan who is serving as an elected official may serve for  
24 compensation without suspension of benefits so long as the  
25 position is otherwise prohibited from participating in the  
26 Teachers' Retirement System, Employees' Retirement System, or  
27 Judicial Retirement Fund.

1           (c) An employer shall pay employer contributions, as  
2 provided by Section 12-17-227.2, Code of Alabama 1975, on all  
3 earnable compensation of an employee who is retired under the  
4 Teachers' Retirement System, Employees' Retirement System, or  
5 Judicial Retirement Fund, regardless of membership status.

6           (d) Any person retired under the Teachers'  
7 Retirement System, Employees' Retirement System, or Judicial  
8 Retirement Fund who is employed with an employer may become a  
9 member by suspending his or her retirement allowance and  
10 contributing to the retirement system as provided by Section  
11 12-17-227.2, Code of Alabama 1975.

12           (e) Any person retired under the District Attorneys'  
13 Plan as of the effective date of this act shall be presumed to  
14 have drawn his or her retirement benefit for 12 consecutive  
15 months without performing services for compensation for any  
16 employer participating in Teachers' Retirement System,  
17 Employees' Retirement System, or Judicial Retirement Fund  
18 during that period.

19           Section 6. Sections 16-25-26, 29-4-6, and 36-27-8.2  
20 of the Code of Alabama 1975, authorizing certain retired state  
21 employees to return to work for the state, are repealed.

22           Section 7. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.