

**SB68 ENROLLED**



1 KJMJUA-2  
2 By Senator Chambliss  
3 RFD: Finance and Taxation General Fund  
4 First Read: 21-Mar-23  
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## SB68 Enrolled

1 Enrolled, An Act,

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4 To amend Sections 36-27-1, 36-27-16, as last amended by  
5 Acts 2022-184 and 2022-351, 2022 Regular Session, and 41-27-7,  
6 Code of Alabama 1975, relating to retirement benefits for  
7 employees who are members of the Employees' Retirement System;  
8 to reopen the State Police Tier II Plan to any employee of the  
9 Alabama State Law Enforcement Agency who is certified by the  
10 Alabama Peace Officers' Standards and Training Commission and  
11 performs law enforcement duties; to modify the Tier II  
12 benefits received by all State Police Tier II members; and to  
13 clarify that employees of the Alabama State Law Enforcement  
14 Agency are state policemen for retirement purposes.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 36-27-1, 36-27-16, as last amended  
17 by Acts 2022-184 and 2022-351, 2022 Regular Session, and  
18 41-27-7 of the Code of Alabama 1975, are amended to read as  
19 follows:

20 "§36-27-1

21 When used in this article, the following terms shall  
22 have the following meanings, respectively, unless the context  
23 clearly indicates otherwise:

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

26 (2) EMPLOYEE. Any regular employee of the State of  
27 Alabama whose salary is paid by state warrant by the state,  
28 except a member of the Legislature of the state, a person who



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29 is covered or eligible to be covered under the Teachers'  
30 Retirement System of Alabama or any other retirement system to  
31 which contributions are made by the state, an elective  
32 official of the state government, and a temporary employee or  
33 person engaged under retainer or special agreement. In all  
34 cases of doubt the Board of Control shall determine who is an  
35 employee within the meaning of this article. The term shall  
36 include any regular employee of the Alabama state hospitals  
37 and Partlow State School and Hospital and the Alabama State  
38 Port Authority, however paid.

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

43 (4) MEMBER. Any employee included in the membership of  
44 the system as provided in Section 36-27-4.

45 (5) BOARD OF CONTROL. The board provided for in Section  
46 36-27-23 to administer the retirement system.

47 (6) MEDICAL BOARD. The board of physicians provided for  
48 in Section 36-27-23.

49 (7) SERVICE. Service as an employee paid for by an  
50 employer.

51 (8) PRIOR SERVICE. Service rendered prior to the date  
52 of establishment of the retirement system for which credit is  
53 allowable under Section 36-27-11.

54 (9) MEMBERSHIP SERVICE. Service as an employee rendered  
55 while a member of the retirement system and on account of  
56 which contributions are made.



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

59 (11) BENEFICIARY. Any person in receipt of a pension,  
60 an annuity, a retirement allowance or other benefit as  
61 provided by this article.

62 (12) REGULAR INTEREST. Interest compounded annually at  
63 the rate determined by the Board of Control in accordance with  
64 subsection (f) of Section 36-27-25.

65 (13) ACCUMULATED CONTRIBUTIONS. The sum of all the  
66 amounts deducted from the compensation of a member credited to  
67 his or her individual account in the Annuity Savings Fund,  
68 together with regular interest thereon, as provided in Section  
69 36-27-24.

70 (14) EARNABLE COMPENSATION. The full rate of  
71 compensation that would be payable to an employee if he or she  
72 worked the full normal work-time. In cases where compensation  
73 includes maintenance, the Board of Control shall fix the value  
74 of that part of the compensation not paid in money. Earnable  
75 compensation shall not exceed the limitations imposed by  
76 Section 401(a)(17) of the Internal Revenue Code for public  
77 pension funds, except that any employee who was a member of  
78 the Employees' Retirement System before the first plan year  
79 beginning after December 31, 1995, shall not be subject to the  
80 earning limitations set forth in Section 401(a)(17). For Tier  
81 I plan members, the term earnable compensation for retirement  
82 purposes shall not include subsistence payments that are made  
83 to a member and shall include overtime payments that are made  
84 to a member; however, earnable compensation shall not exceed



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85 120 percent of any members' annual base compensation as  
86 certified by the employer. For Tier II plan members, earnable  
87 compensation shall include overtime payments that are made to  
88 the member but shall not include subsistence payments that are  
89 made to the member and shall not exceed one hundred  
90 twenty-five percent (125%) of the member's annual base  
91 compensation, as certified by the employer.

92 (15) AVERAGE FINAL COMPENSATION. For any Tier I plan  
93 member, the average annual compensation of the member, with  
94 respect to which he or she had made contributions pursuant to  
95 subsection (b) of Section 36-27-24 during the three years, in  
96 his or her last 10 years of creditable service for which the  
97 average is highest or during his or her entire period of  
98 creditable service if less than three years; except, that for  
99 any period prior to November 1, 1959, the compensation used in  
100 computing the average shall include compensation in excess of  
101 the maximum amount with respect to which members were required  
102 to contribute. For any Tier II plan member, the average annual  
103 compensation of the member, with respect to which he or she  
104 has made contributions pursuant to subsection (b) of Section  
105 36-27-24 during the five years, in his or her last ~~ten~~ 10  
106 years of creditable service for which the average is highest  
107 or during his or her entire period of creditable service if  
108 less than five years.

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

112 (17) PENSION. Payments for life derived from money



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113 provided by the employer. All pensions shall be payable in  
114 equal monthly installments.

115 (18) RETIREMENT ALLOWANCE. The sum of the "annuity" and  
116 the "pension."

117 (19) RETIREMENT. Withdrawal from active service with a  
118 retirement allowance or optional benefit in lieu thereof  
119 granted under this article.

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

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

128 (22) ACTUARIAL EQUIVALENT. A benefit of equal value  
129 when computed upon the basis of the mortality tables adopted  
130 by the Board of Control and regular interest.

131 (23) STATE POLICEMAN. An employee in the classified  
132 service under the Merit System Act approved by the State  
133 Personnel Board to perform the duties of highway patrolman or  
134 a beverage control agent or a crime investigator. The term  
135 includes any employee ~~hired by~~ of the Alabama State Law  
136 Enforcement Agency ~~after January 1, 2015,~~ who is certified by  
137 the Alabama Peace Officers' Standards and Training Commission  
138 and performs law enforcement duties. ~~Such an employee of the~~  
139 ~~Alabama State Law Enforcement Agency shall pay the same~~  
140 ~~employee contribution rate as and receive the same benefits as~~



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141 ~~Tier II law enforcement officers, as defined by Section~~  
142 ~~36-27-59(a)(3).~~ The term shall not include a member employed  
143 as a policeman under Section 36-27-6.

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

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

148 (26) TIER I PLAN MEMBER. Any member of the Retirement  
149 System who had service for which he or she received credit in  
150 the Employees' Retirement System or in the Teachers'  
151 Retirement System prior to January 1, 2013.

152 (27) TIER II PLAN MEMBER. Any member of the Retirement  
153 System who first began eligible employment with an Employees'  
154 Retirement System or a Teachers' Retirement System  
155 participating employer on or after January 1, 2013, and who  
156 had no eligible service in the Employees' Retirement System or  
157 the Teachers' Retirement System prior to January 1, 2013."

158 "§36-27-16

159 (a) (1) RETIREMENT, ETC., OF EMPLOYEES GENERALLY;  
160 ELIGIBILITY FOR SERVICE RETIREMENT BENEFITS.

161 a. Any Tier I plan member who withdraws from service  
162 upon or after attainment of age 60 and any Tier II plan member  
163 who withdraws from service upon or after attainment of age 62  
164 may retire upon written application to the Board of Control  
165 setting forth at what time, not less than 30 days nor more  
166 than 90 days subsequent to the execution and filing thereof,  
167 he or she desires to be retired; provided, that any such  
168 member who became a member on or after October 1, 1963, shall



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169 have completed 10 or more years of creditable service;  
170 provided further, that a Tier I or Tier II plan member  
171 employed as a state policeman shall be eligible to file  
172 application for service retirement upon attaining age 52 and a  
173 Tier II plan member employed as ~~a state policeman or employed~~  
174 ~~as~~ a correctional officer, firefighter, or law enforcement  
175 officer as defined in Section 36-27-59 with at least 10 years  
176 of creditable service as a correctional officer, firefighter,  
177 or law enforcement officer shall be eligible to file  
178 application for service retirement upon attaining age 56.

179         b. Any Tier I plan member who has attained age 60, or  
180 age 52 in the case of a state policeman and any Tier II plan  
181 member who has attained age 62, or age ~~56~~ 52 in the case of a  
182 state policeman, or age 56 in the case of a correctional  
183 officer, firefighter, or law enforcement officer as defined in  
184 Section 36-27-59 who has at least 10 years of creditable  
185 service as a correctional officer, firefighter, or law  
186 enforcement officer, and has previously withdrawn from service  
187 may retire upon written application to the Board of Control  
188 setting forth at what time, not less than 30 days nor more  
189 than 90 days subsequent to the execution and filing thereof,  
190 he or she desires to be retired; provided, the member shall  
191 have at the time of his or her withdrawal from service  
192 completed the age and service requirements established by the  
193 Board of Control for eligibility for deferred benefits;  
194 provided, that the minimum number of years of creditable  
195 service shall not be less than 10 years nor more than 25  
196 years.



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197 c. In addition to any law or part of law relating to  
198 service retirement under the Employees' Retirement System of  
199 Alabama, any Tier I plan member of the Employees' Retirement  
200 System or Tier II plan member employed as a state policeman  
201 who withdraws from service after completion of not less than  
202 25 years of creditable service, or any Tier II plan member who  
203 withdraws from service after completion of not less than 30  
204 years of creditable service, may retire without a reduction in  
205 retirement allowance upon written application to the Board of  
206 Control of the Employees' Retirement System setting forth the  
207 first day of which month, not less than 30 days or more than  
208 90 days subsequent to the execution and filing thereof, he or  
209 she desires to be retired, provided that no person whose  
210 employer participates in the Employees' Retirement System  
211 under Section 36-27-6 shall be entitled to the benefits  
212 provided in this paragraph for Tier I members unless the  
213 employer elects to come under the provisions of the paragraph.  
214 Any employer making this election must bear the cost of the  
215 benefit.

216 (2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

217 a. Upon retirement from service, a Tier I plan member  
218 shall receive a service retirement allowance which shall  
219 consist of:

220 1. An annuity which shall be the actuarial equivalent  
221 of his or her accumulated contributions at the time of his or  
222 her retirement; except, that in the case of a state policeman  
223 who has completed 20 years of creditable service as a state  
224 policeman who retires after age 56 but prior to age 60, the



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225 annuity shall be equal to the annuity that would have been  
226 payable upon service retirement at age 60 had the member  
227 continued in service to age 60 without change in compensation;

228         2. A pension which shall be equal to the annuity  
229 allowance at age of retirement, but not to exceed an annuity  
230 allowable at age 65, computed on the basis of contributions  
231 made prior to attainment of age 65; except, that in the case  
232 of a state policeman who has completed 20 years of creditable  
233 service as a state policeman who retires after age 56 but  
234 prior to age 60, the pension shall be equal to the annuity  
235 that he or she would have received had he or she contributed  
236 to age 60 without change in compensation; and

237         3. An additional pension, if he or she has a prior  
238 service certificate in full force and effect, which shall be  
239 equal to the annuity which would have been provided at the age  
240 of retirement, but which shall not exceed an annuity allowable  
241 at age 65 by twice the contributions which he or she would  
242 have made during the period of prior service with which he or  
243 she is credited had the system been in operation and had he or  
244 she contributed thereunder; except, that in case of a state  
245 policeman who has completed 20 years of creditable service as  
246 a state policeman who retired after age 56 but prior to age  
247 60, an additional pension, if he or she has a prior service  
248 certificate in full force and effect, which shall be equal to  
249 the annuity which would have been provided at age 60, but  
250 which shall not exceed an annuity allowable at age 60 by twice  
251 the contributions which he or she would have made during the  
252 period of prior service with which he or she is credited had



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253 the system been in operation and had he or she contributed  
254 thereunder.

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

260 1. An annuity which shall be equal to the annuity that  
261 would have been payable had the member continued in service  
262 for four years without change in compensation;

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

266 3. An additional pension, if he or she has a prior  
267 service certificate in full force and effect, which shall be  
268 equal to the annuity which would have been provided at the age  
269 of retirement, but which shall not exceed an annuity allowable  
270 at the age of retirement plus four years by twice the  
271 contributions which he or she would have made during the  
272 period of prior service with which he or she is credited had  
273 the system been in operation and had he or she contributed  
274 thereunder. In lieu of a determination of the actual  
275 compensation of a member that was received during that prior  
276 service, the Board of Control may use for the purpose of this  
277 article the compensation rate which, if it had progressed with  
278 the rates of salary increase shown in the tables as prescribed  
279 in subsection (n) of Section 36-27-23, would have resulted in  
280 the same average salary of the member for the five years



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281 immediately preceding the date of establishment as the records  
282 show the member actually received.

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

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

291 2. If he or she became a member before October 1, 1965,  
292 seventy-two dollars (\$72) multiplied by the number of years of  
293 his or her creditable service not in excess of 25 years.

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

299 1. Two and seven-eighths percent of the member's  
300 average final compensation multiplied by the number of years  
301 of his or her creditable service. Creditable service for any  
302 state policeman under the age of 56 years who has completed 20  
303 years of creditable service as a state policeman shall include  
304 a bonus equal to four additional years. Creditable service for  
305 a state policeman 56 years or older shall include a bonus  
306 equal to the years or portion thereof remaining until the  
307 member reaches age 60; or

308 2. If he or she became a member before October 1, 1965,



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309 eighty-six dollars forty cents (\$86.40) multiplied by the  
310 number of years of his or her creditable service not in excess  
311 of 25 years; provided, however, that if the member has  
312 completed 20 years of creditable service as a state policeman  
313 and has not attained age 60 at the time of retirement, the  
314 pension shall be determined as provided in this subparagraph  
315 on the basis of the number of years of creditable service  
316 which he or she would have had if he or she had remained in  
317 service for four years, except that, in the case of those  
318 state policemen retiring at age 56 or after, the number of  
319 years in determining the pension shall not exceed the number  
320 of years of creditable service which he or she would have had  
321 if he or she had remained in service to age 60.

322 e. Upon retirement from service, a Tier II plan member  
323 who is not employed as a state policeman shall receive a  
324 service retirement allowance which shall consist of an annuity  
325 which shall be the actuarial equivalent of the member's  
326 accumulated contributions at the time of retirement and a  
327 pension which, when added to the member's annuity, shall be  
328 equal to one and sixty-five hundredths percent (1.65%) of the  
329 member's average final compensation multiplied by the number  
330 of years of creditable service. The service retirement  
331 allowance for a member who retires with 30 years of creditable  
332 service before reaching the age of 62 shall be reduced by two  
333 percent (2%) for each year of the difference between age 62  
334 and the age at retirement of the member. Notwithstanding the  
335 foregoing, the service retirement allowance shall not exceed  
336 eighty percent (80%) of the member's average final



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337 compensation.

338           f. Upon retirement from service, a Tier II plan member  
339 who is employed as a state policeman shall receive a service  
340 retirement allowance which shall consist of an annuity which  
341 shall be the actuarial equivalent of the member's accumulated  
342 contributions at the time of retirement and a pension which,  
343 when added to the member's annuity, shall be equal to two and  
344 three-eighths percent (2.375%) of the member's average final  
345 compensation multiplied by the member's number of years of  
346 creditable service. The service retirement allowance for a  
347 member who retires with 30 years of creditable service before  
348 reaching the age of 62 shall be reduced by two percent (2%)  
349 for each year of the difference between age 62 and the age at  
350 retirement of the member. Notwithstanding the foregoing, the  
351 service retirement allowance shall not exceed eighty percent  
352 (80%) of the member's average final compensation. Creditable  
353 service for any Tier II plan member who is employed as a state  
354 policeman shall include one year of hazardous duty time for  
355 every five years of service as a state policeman.

356           g. Anything in this article to the contrary  
357 notwithstanding, in the application of the foregoing  
358 provisions of this subdivision to a member whose creditable  
359 service includes a period of service as a state policeman and  
360 a period of service in another employment classification, the  
361 benefit rates applicable to a member employed as a state  
362 policeman shall apply to all creditable service as a state  
363 policeman, and the benefit rates applicable to a member not  
364 employed as a state policeman shall apply to all creditable



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365 service, but in all other respects the pension under this  
366 subdivision shall be determined on the basis of the member's  
367 employment classification at the time of his or her withdrawal  
368 from service.

369 h. The annual service retirement pension payable to any  
370 state employee who had attained age 60 on or before October 1,  
371 1945, who declined membership in the Employees' Retirement  
372 System of Alabama in the manner prescribed in Section 36-27-4  
373 and who retires as a state employee after completing a minimum  
374 of 15 years' service shall be seventy-two dollars (\$72)  
375 multiplied by the number of years of his or her service not in  
376 excess of 25 years.

377 (b) (1) RETIREMENT OF DISABLED EMPLOYEES; ELIGIBILITY  
378 FOR DISABILITY RETIREMENT BENEFITS.

379 a. Upon application of a Tier I plan member in service  
380 or of his or her employer, any member who has had 10 or more  
381 years of creditable service who becomes disabled may be  
382 retired on a disability retirement allowance by the Board of  
383 Control not less than 30 nor more than 90 days next following  
384 the date of filing of the application; provided, that the  
385 medical board, after a medical examination of the member,  
386 shall certify that the member is mentally or physically  
387 incapacitated for the further performance of duty, that the  
388 incapacity is likely to be permanent and that the member  
389 should be retired. Upon the application of a Tier II plan  
390 member in service or his or her employer, any member who has  
391 had 10 or more years of creditable service may be retired by  
392 the Board of Control on a disability retirement allowance not



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393 less than 30 nor more than 90 days next following the date of  
394 filing the application; provided, that the medical board,  
395 after a medical examination of the member, shall certify that  
396 the member is totally and permanently mentally or physically  
397 incapacitated from regular and substantial gainful employment,  
398 and that member should be retired.

399           b. Without regard to the number of years of creditable  
400 service, a member employed as a state policeman, a municipal  
401 police officer or a deputy sheriff, or a member employed as a  
402 state, municipal, or county firefighter who is not covered  
403 through his or her current employer under the United States  
404 Social Security Act, who as a result of his or her employment,  
405 in the line of duty and not as a result of his or her own  
406 misconduct, shall become permanently and totally disabled to  
407 the extent that he or she cannot perform his or her duties or  
408 duties of a less strenuous nature, as an employee of the State  
409 of Alabama or as an employee of an employer participating  
410 under the provisions of Section 36-27-6, shall be retired on a  
411 disability retirement allowance, not less than 30 nor more  
412 than 90 days next following the date of filing of the  
413 application, provided that the medical board, after a medical  
414 examination of the member shall certify that the member is  
415 mentally or physically incapacitated for the further  
416 performance of duty, that the incapacity is likely to be  
417 permanent, and that the member should be retired.

418           (2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

419           a. Upon retirement for disability a member shall  
420 receive a service retirement allowance [based on age and](#)





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421 service if he or she is a Tier I plan member and he or she has  
422 attained age 60 or if he or she is ~~a Tier II plan member and~~  
423 ~~he or she has attained age 62, or if any law or part of any~~  
424 ~~law pertaining to retirement under the Employees' Retirement~~  
425 ~~System of Alabama provides for service retirement after the~~  
426 ~~completion of 25 years of creditable service or 30 years of~~  
427 ~~creditable service without a reduction in the retirement~~  
428 ~~allowance and the member has completed 25 years of creditable~~  
429 ~~service or 30 years of creditable service, whichever is~~  
430 ~~applicable, or, in the case of a state policeman, if he or she~~  
431 ~~is a Tier I plan member and he or she has attained age 52 or,~~  
432 ~~in the case of a state policeman or a correctional officer,~~  
433 ~~firefighter, or law enforcement officer as defined in Section~~  
434 ~~36-27-59 with at least 10 years of creditable service as a~~  
435 ~~correctional officer, firefighter, or law enforcement officer,~~  
436 ~~if he or she is a Tier II plan member and he or she has~~  
437 ~~attained age 56~~ otherwise eligible to retire; otherwise, he or  
438 she shall receive a disability retirement allowance which  
439 shall consist of:

440 1. An annuity which shall be the actuarial equivalent  
441 of his or her accumulated contributions at the time of his or  
442 her retirement;

443 2. A pension which shall be equal to the pension that  
444 would have been payable under subparagraphs (a)(2)a.2. and  
445 (a)(2)a.3. of this section upon service retirement at age 65  
446 had the member continued in service to that age without change  
447 in compensation.

448 b. The annual disability retirement pension payable to



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449 a Tier I plan member not employed as a state policeman  
450 retiring on or after October 1, 1975, shall not be less than  
451 an amount which when added to his or her annuity is equal to  
452 the greatest of the following two amounts:

453 1. Two and one-eightieth percent of the member's  
454 average final compensation multiplied by the number of years  
455 of creditable service.

456 2. If he or she became a member before October 1, 1965,  
457 fifty-four dollars (\$54) multiplied by the number of years of  
458 his or her creditable service not in excess of 25 years.

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

464 1. Two and seven-eighths percent of the member's  
465 average final compensation multiplied by the number of years  
466 of his or her creditable service. Creditable service for any  
467 state policeman under the age of 56 years who has completed 20  
468 years of creditable service as a state policeman shall include  
469 a bonus equal to four additional years. Creditable service for  
470 a state policeman 56 years or older shall include a bonus  
471 equal to the years or portion thereof remaining until the  
472 member reaches age 60; or

473 2. If he or she became a member before October 1, 1965,  
474 sixty-four dollars eighty cents (\$64.80) multiplied by the  
475 number of years of his or her creditable service not in excess  
476 of 25 years.



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477           d. The annual disability retirement allowance payable  
478 to a Tier II plan member not employed as a state policeman  
479 shall be equal to one and sixty-five hundredths percent  
480 (1.65%) of the member's average final compensation multiplied  
481 by the number of years of creditable service.

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

487           f. Anything in this chapter to the contrary  
488 notwithstanding in the application of the provisions of this  
489 subdivision to a member whose creditable service includes a  
490 period of service as a state policeman and a period of service  
491 in another employment classification the benefit rates  
492 applicable to a member employed as a state policeman shall  
493 apply to all creditable service as a state policeman, and the  
494 benefit rates applicable to a member not employed as a state  
495 policeman shall apply to all other creditable service, but in  
496 all other respects the pension under this subdivision shall be  
497 determined on the basis of the member's employment  
498 classification at the time of his or her withdrawal from  
499 service.

500           (3) REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT  
501 OF DISABILITY. Once each year during the first five years  
502 following the retirement of a member on a disability  
503 retirement allowance and once every three-year period  
504 thereafter, the Board of Control may, and upon his or her

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505 application shall, require any disability beneficiary who has  
506 not yet attained age 60 if the beneficiary is a Tier I plan  
507 member or age 62 if the beneficiary is a Tier II plan member  
508 to undergo a medical examination, the examination to be made  
509 at the place of residence of the beneficiary or other place  
510 mutually agreed upon by a physician or physicians of or  
511 designated by the medical board. Should any disability  
512 beneficiary who has not yet attained age 60, if the  
513 beneficiary is a Tier I plan member or age 62, if the  
514 beneficiary is a Tier II plan member, refuse to submit to the  
515 medical examination, his or her allowance may be discontinued  
516 until his or her withdrawal of the refusal, and, should his or  
517 her refusal continue for one year, all his or her rights in  
518 and to his or her pension may be revoked by the Board of  
519 Control; provided, that these requirements relative to the  
520 medical examination shall not apply in the case of a state  
521 policeman retired for disability and who has attained age 52  
522 ~~if he or she is a Tier I plan member~~ or in the case of ~~a state~~  
523 ~~policeman or~~ a correctional officer, firefighter, or law  
524 enforcement officer as defined in Section 36-27-59 with at  
525 least 10 years of creditable service as a correctional  
526 officer, firefighter, or law enforcement officer retired for  
527 disability who has attained age 56 if he or she is a Tier II  
528 plan member. Should the medical board report and certify to  
529 the Board of Control that a disability beneficiary who is a  
530 Tier I plan member is engaged in or is able to engage in a  
531 gainful occupation paying more than the difference between his  
532 or her retirement allowance and his or her average final



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533 compensation and should the Board of Control concur in the  
534 report, then the amount of his or her pension shall be reduced  
535 to an amount which, together with his or her annuity and the  
536 amount earnable by him or her, shall equal the amount of his  
537 or her average final compensation. Should his or her earning  
538 capacity be later changed, the amount of his or her pension  
539 may be further modified; provided, that the new pension shall  
540 not exceed the amount of the pension originally granted nor an  
541 amount which, when added to the amount earnable by the  
542 beneficiary, together with this annuity exceeds the amount of  
543 his or her average final compensation.

544           Should the medical board report and certify to the  
545 Board of Control that a disability beneficiary who is a Tier  
546 II plan member has the capacity to engage in regular and  
547 substantial gainful employment, the Board of Control shall  
548 discontinue the beneficiary's retirement allowance until the  
549 beneficiary is otherwise eligible for service retirement.

550           (c) Disposition of contributions and allowances upon  
551 death, etc., of member.

552           (1) Should a member cease to be an employee except by  
553 death or by retirement under the provisions of this article,  
554 the contributions standing to the credit of his or her  
555 individual account in the Annuity Savings Fund shall be paid  
556 to him or her upon demand and, in addition to the payment,  
557 there shall be paid five-tenths of the interest accumulations  
558 standing to the credit of his or her individual account if he  
559 or she shall have not less than three but less than 16 years  
560 of membership service, six-tenths of the interest



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561 accumulations if he or she shall have not less than 16 but  
562 less than 21 years of membership service, seven-tenths of the  
563 interest accumulations if he or she shall have not less than  
564 21 but less than 26 years of membership service and  
565 eight-tenths of the interest accumulations if he or she shall  
566 have not less than 26 years of membership service.

567 (2) In case of the death of a member eligible for  
568 service retirement pursuant to subsection (a), an allowance  
569 shall be paid to the surviving spouse, if designated as the  
570 sole beneficiary, in an amount that would have been payable if  
571 the member had retired immediately prior to his or her death  
572 and had elected Option 2, as set forth in subsection (d), or  
573 to such other person who the member shall have designated, in  
574 an amount that would have been payable if the member had  
575 retired immediately prior to his or her death and had elected  
576 Option 3, as set forth in subsection (d). Alternatively, if  
577 the surviving spouse or other designee desires, he or she may  
578 choose to receive, in lieu of the allowance provided under  
579 Option 2 or Option 3, the accumulated contributions of the  
580 member plus an amount equal to the accumulated contributions  
581 of the member not to exceed five thousand dollars (\$5,000) or  
582 the accumulated contributions of the member plus the benefit  
583 provided by Section 36-27B-3 if a benefit is payable under  
584 that section;

585 (3) In case of the death of a Tier I plan member not  
586 eligible for service retirement, after completion of 25 years  
587 of creditable service, an allowance shall be paid to the  
588 surviving spouse, if designated as the sole beneficiary, in an

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589 amount that would have been payable if the member had retired  
590 immediately prior to his or her death and had elected Option  
591 2, as set forth in subsection (d), or to such other person who  
592 the member shall have designated, in an amount that would have  
593 been payable if the member had retired for disability  
594 immediately prior to his or her death and had elected Option 3  
595 as set forth in subsection (d). Alternatively, if the  
596 surviving spouse or other designee desires, he or she may  
597 choose to receive, in lieu of the allowance provided under  
598 Option 2 or Option 3, the accumulated contributions of the  
599 member plus an amount equal to the accumulated contributions  
600 of the member not to exceed five thousand dollars (\$5,000) or  
601 the accumulated contributions of the member plus the benefit  
602 provided by Section 36-27B-3 if a benefit is payable under  
603 that section. For purposes of this subsection only, hazardous  
604 duty time, as set forth in subdivision (b)(1) of Section  
605 36-27-59, may be used in calculating the requisite years of  
606 service for firefighters, law enforcement officers, and  
607 correctional officers even if the member has not otherwise  
608 attained 25 years of creditable service;

609 (4) Upon the death of a member on account of whom no  
610 survivor allowance is payable under subdivisions (2) or (3) of  
611 this subsection, the accumulated contributions of the member  
612 plus an amount equal to the accumulated contributions not to  
613 exceed five thousand dollars (\$5,000) or the accumulated  
614 contributions of the member plus the benefit provided by  
615 Section 36-27B-3 if a benefit is payable under that section  
616 shall be paid to his or her estate or to such person as he or



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617 she shall have nominated by written designation duly executed  
618 and filed with the Board of Control.

619 (d) Optional allowances. With the provision that the  
620 election of an option shall be effective on the effective date  
621 of retirement, any member may elect prior to retirement to  
622 receive, in lieu of his or her retirement allowance payable  
623 throughout life, the actuarial equivalent, at that time, of  
624 his or her retirement allowance in a reduced retirement  
625 allowance payable throughout life with the provisions that:

626 (1) OPTION 1. If he or she dies before he or she has  
627 received in annuity payments the present value of his or her  
628 annuity as it was at the time of his or her retirement, the  
629 balance shall be paid to his or her legal representatives or  
630 to the person as he or she shall nominate by written  
631 designation duly acknowledged and filed with the Board of  
632 Control;

633 (2) OPTION 2. Upon his or her death, his or her reduced  
634 retirement allowance shall be continued throughout the life of  
635 and paid to the person as he or she shall nominate by written  
636 designation duly acknowledged and filed with the Board of  
637 Control at the time of his or her retirement;

638 (3) OPTION 3. Upon his or her death, one half of his or  
639 her reduced allowance shall be continued throughout the life  
640 of and paid to the person as he or she shall nominate by  
641 written designation duly acknowledged and filed with the Board  
642 of Control at the time of his or her retirement; ~~or~~

643 (4) OPTION 4. Some other benefit or benefits shall be  
644 paid either to the member or to the person or persons as he or





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645 she shall nominate; provided, that those other benefits,  
646 together with the reduced retirement allowance, shall be  
647 certified by the actuary to be of equivalent actuarial value  
648 to his or her retirement allowance and shall be approved by  
649 the Board of Control ~~;~~ or

650 (5) OPTION 5. At the time of retirement, he or she  
651 shall receive a partial lump sum distribution as a single  
652 payment not to exceed the sum of 24 months of the maximum  
653 monthly retirement allowance the member could receive. This  
654 option may be elected in addition to the election of another  
655 option under this subsection and the further reduced monthly  
656 retirement allowance shall be calculated in accordance with  
657 the selected option. This option shall not be available to a  
658 member who is receiving a disability retirement.

659 (e) Effect of return to active service. Should any  
660 beneficiary be restored to active service, his or her  
661 retirement allowance shall be suspended until he or she again  
662 withdraws from service and he or she shall not again become a  
663 member of the retirement system nor shall he or she make  
664 contributions; except, that should the beneficiary who has  
665 been restored to active service continue in service for a  
666 period of two or more years from the date of his or her  
667 reentry into active service, he or she may request the Board  
668 of Control to allow him or her to again become a member of the  
669 retirement system. The Board of Control may grant the request  
670 for restoration to membership; provided, that the beneficiary  
671 whose retirement allowance has been suspended shall repay to  
672 the system all monies received by him or her as benefits

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673 during any periods subsequent to the date of his or her  
674 reentry into active service and shall make a contribution  
675 equal to the amount he or she would have contributed had he or  
676 she been a member during the period of his or her restoration  
677 to active service on a suspended allowance basis together with  
678 the interest that would have been credited to the  
679 contributions on account of the period of restoration up to  
680 the date the contribution is made.

681 (f) (1) REDETERMINATION, ETC., OF CERTAIN ALLOWANCES.  
682 All retirement allowance payments due on or after October 1,  
683 1975, to members who retired prior to that date shall be  
684 redetermined as if the provisions of this section in effect on  
685 October 1, 1975, were in effect at the time the member  
686 retired. Anything in this article to the contrary  
687 notwithstanding, the annual retirement allowance of any member  
688 not employed as a state policeman who retired on or before  
689 January 1, 1956, shall not be less than seventy-nine dollars  
690 twenty cents (\$79.20) multiplied by the number of years of his  
691 or her creditable service not in excess of 30 years in the  
692 case of service retirement of fifty-nine dollars forty cents  
693 (\$59.40) multiplied by the number of years of his or her  
694 creditable service not in excess of 30 years in the case of  
695 disability retirement. Any increase provided in the retirement  
696 allowance payment under this subdivision for a member who  
697 retired under the provisions of any optional benefit elected  
698 pursuant to subsection (d) shall accrue only to the retired  
699 member, and no person designated to receive any payments after  
700 the death of a retired member under the provisions of any



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701 optional benefit shall receive any increase in payments under  
702 this subdivision. Notwithstanding, any member who retired  
703 prior to October 1, 1975, and who chose either Option 2 or  
704 Option 3 may elect to receive a reduced allowance and to  
705 stipulate that the actuarial equivalent of the increase in his  
706 or her retirement allowance, which became effective on that  
707 date, be ascribed to his or her designated beneficiary;  
708 provided, that the member shall clearly express this intention  
709 by filing a written application to the effect with the  
710 Secretary-Treasurer of the Employees' Retirement System of  
711 Alabama prior to October 1, 1976.

712 (2) Any person who, prior to October 1, 1963, was in  
713 receipt of a benefit pursuant to Act No. 376, approved  
714 November 6, 1959, but was not a member of the system at the  
715 time of retirement shall not be entitled to receive an annual  
716 retirement allowance from the system, effective October 1,  
717 1971, as follows:

718 a. If the person was retired on or before January 1,  
719 1956, an amount equal to seventy-nine dollars twenty cents  
720 (\$79.20) multiplied by the number of years of his or her  
721 creditable service not in excess of 30 years.

722 b. If the person was retired after January 1, 1956, an  
723 amount equal to seventy-two dollars (\$72) multiplied by the  
724 number of years of his or her creditable service not in excess  
725 of 25 years.

726 (3) Prior to October 31, 1975, any beneficiary may  
727 elect to leave on deposit with the system all or a specified  
728 part of any increase in his or her monthly retirement

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729 allowance payments arising in accordance with subdivisions (1)  
730 or (2) of this subsection over the monthly allowance which he  
731 or she was receiving prior to October 1, 1975. The portion of  
732 each monthly payment left in the system in accordance with the  
733 election shall be credited, together with regular interest  
734 thereon, to the individual account of the beneficiary. Upon  
735 the death of the beneficiary the total amount standing to his  
736 or her credit, including regular interest to the date of  
737 death, shall be paid in a lump sum to his or her legal  
738 representatives or to such person as he or she shall have  
739 nominated by written designation duly acknowledged and filed  
740 with the Board of Control.

741 (g) Notwithstanding any other provisions of this  
742 section to the contrary, when a designated beneficiary for a  
743 member predeceases the member who is receiving a monthly  
744 benefit allowance provided under Option 2, 3, or 4, the member  
745 may designate a replacement beneficiary for the deceased  
746 beneficiary to become effective two years after the date of  
747 designation of the replacement beneficiary and an actuarial  
748 adjustment in the monthly benefit allowance of the member to  
749 cover any cost associated with designating a replacement  
750 beneficiary shall be reflected thereafter in the monthly  
751 benefit allowance received by the member, commencing with the  
752 first benefit allowance check received by the member following  
753 the date of designation of the replacement beneficiary.

754 (h) Notwithstanding any provision of this section to  
755 the contrary, if a retired member who is receiving a monthly  
756 benefit allowance provided under Option 2, 3, or 4 divorces

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757 his or her designated beneficiary, the member may designate a  
758 replacement beneficiary for the beneficiary to become  
759 effective two years after the date of designation of the  
760 replacement beneficiary and an actuarial adjustment in the  
761 monthly benefit allowance of the member to cover any cost  
762 associated with designating a replacement beneficiary shall be  
763 reflected thereafter in the monthly benefit allowance received  
764 by the member, commencing with the first benefit allowance  
765 check received by the member following the date of designation  
766 of the replacement beneficiary.

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

771 "§41-27-7

772 (a) For the purposes of this article, the term "legacy  
773 agency" means an existing agency, department, or division that  
774 is being reorganized or abolished under this article.

775 (b) Unless otherwise provided in this article, all  
776 positions created by this article shall be in the classified  
777 service of the state Merit System.

778 (c) All persons employed on January 1, 2015, with a  
779 legacy agency and transferred to the Alabama State Law  
780 Enforcement Agency, Department of Public Safety, or State  
781 Bureau of Investigations shall maintain his or her  
782 classification and benefits under the legacy agency. A person  
783 employed by a legacy agency on January 1, 2015, shall not  
784 receive a decrease in salary, benefits, or seniority or



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785 otherwise receive a decrease in classification as a result of  
786 the transfer to the Alabama State Law Enforcement Agency,  
787 Department of Public Safety, or State Bureau of  
788 Investigations.

789 (d) Any future change in classification shall not  
790 result in any change in benefits an employee previously had at  
791 a legacy agency.

792 (e) An employee of a legacy agency transferred to the  
793 Alabama State Law Enforcement Agency, Department of Public  
794 Safety, or State Bureau of Investigations under this article  
795 shall remain in his or her current classification unless  
796 appointed to the appropriate classification within the newly  
797 created department according to state Merit System procedures.

798 (f) Any employee hired ~~in~~ or transferred into the  
799 Alabama State Law Enforcement Agency after January 1, 2015,  
800 who is certified by the Alabama Peace Officers' Standards and  
801 Training Commission and ~~performs law enforcement duties shall~~  
802 ~~be considered a law enforcement officer, as defined by Section~~  
803 ~~36-27-59(a)(3), but~~ is a state policeman is not eligible for  
804 the benefits specified in Section 36-26-35(d)."

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



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB68

Senate 06-Apr-23

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

Patrick Harris,  
Secretary.

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House of Representatives

Passed: 18-Apr-23

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By: Senator Chambliss