

SB68 INTRODUCED



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

This bill would reopen the State Police Tier II Plan to any employee of the Alabama State Law Enforcement Agency who is certified by the Alabama Peace Officers' Standards and Training Commission and performs law enforcement duties and would modify the Tier II benefits received by State Police Tier II members to allow 25-year retirement and hazardous duty time, and would clarify that an employee of the Alabama State Law Enforcement Agency who is certified by the Alabama Peace Officers' Standards and Training Commission is a state policeman.

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 36-27-1, 36-27-16, as last amended by Acts 2022-184 and 2022-351, 2022 Regular Session, and 41-27-7, Code of Alabama 1975, relating to retirement benefits for employees who are members of the Employees' Retirement System; to reopen the State Police Tier II Plan to any employee of the Alabama State Law Enforcement Agency who is certified by the Alabama Peace Officers' Standards and Training Commission and



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29 performs law enforcement duties; to modify the Tier II
30 benefits received by all State Police Tier II members; and to
31 clarify that employees of the Alabama State Law Enforcement
32 Agency are state policemen for retirement purposes.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

38 "§36-27-1

39 When used in this article, the following terms shall
40 have the following meanings, respectively, unless the context
41 clearly indicates otherwise:

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

44 (2) EMPLOYEE. Any regular employee of the State of
45 Alabama whose salary is paid by state warrant by the state,
46 except a member of the Legislature of the state, a person who
47 is covered or eligible to be covered under the Teachers'
48 Retirement System of Alabama or any other retirement system to
49 which contributions are made by the state, an elective
50 official of the state government, and a temporary employee or
51 person engaged under retainer or special agreement. In all
52 cases of doubt the Board of Control shall determine who is an
53 employee within the meaning of this article. The term shall
54 include any regular employee of the Alabama state hospitals
55 and Partlow State School and Hospital and the Alabama State
56 Port Authority, however paid.



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

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

63 (5) BOARD OF CONTROL. The board provided for in Section
64 36-27-23 to administer the retirement system.

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

67 (7) SERVICE. Service as an employee paid for by an
68 employer.

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

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

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

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

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

83 (13) ACCUMULATED CONTRIBUTIONS. The sum of all the
84 amounts deducted from the compensation of a member credited to



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85 his or her individual account in the Annuity Savings Fund,
86 together with regular interest thereon, as provided in Section
87 36-27-24.

88 (14) EARNABLE COMPENSATION. The full rate of
89 compensation that would be payable to an employee if he or she
90 worked the full normal work-time. In cases where compensation
91 includes maintenance, the Board of Control shall fix the value
92 of that part of the compensation not paid in money. Earnable
93 compensation shall not exceed the limitations imposed by
94 Section 401(a)(17) of the Internal Revenue Code for public
95 pension funds, except that any employee who was a member of
96 the Employees' Retirement System before the first plan year
97 beginning after December 31, 1995, shall not be subject to the
98 earning limitations set forth in Section 401(a)(17). For Tier
99 I plan members, the term earnable compensation for retirement
100 purposes shall not include subsistence payments that are made
101 to a member and shall include overtime payments that are made
102 to a member; however, earnable compensation shall not exceed
103 120 percent of any members' annual base compensation as
104 certified by the employer. For Tier II plan members, earnable
105 compensation shall include overtime payments that are made to
106 the member but shall not include subsistence payments that are
107 made to the member and shall not exceed one hundred
108 twenty-five percent (125%) of the member's annual base
109 compensation, as certified by the employer.

110 (15) AVERAGE FINAL COMPENSATION. For any Tier I plan
111 member, the average annual compensation of the member, with
112 respect to which he or she had made contributions pursuant to



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113 subsection (b) of Section 36-27-24 during the three years, in
114 his or her last 10 years of creditable service for which the
115 average is highest or during his or her entire period of
116 creditable service if less than three years; except, that for
117 any period prior to November 1, 1959, the compensation used in
118 computing the average shall include compensation in excess of
119 the maximum amount with respect to which members were required
120 to contribute. For any Tier II plan member, the average annual
121 compensation of the member, with respect to which he or she
122 has made contributions pursuant to subsection (b) of Section
123 36-27-24 during the five years, in his or her last ~~ten~~ 10
124 years of creditable service for which the average is highest
125 or during his or her entire period of creditable service if
126 less than five years.

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

130 (17) PENSION. Payments for life derived from money
131 provided by the employer. All pensions shall be payable in
132 equal monthly installments.

133 (18) RETIREMENT ALLOWANCE. The sum of the "annuity" and
134 the "pension."

135 (19) RETIREMENT. Withdrawal from active service with a
136 retirement allowance or optional benefit in lieu thereof
137 granted under this article.

138 (20) ANNUITY RESERVE. The present value of all payments
139 to be made on account of any annuity or benefit in lieu of any
140 annuity computed upon the basis of the mortality tables



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141 adopted by the Board of Control and regular interest.

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

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

149 (23) STATE POLICEMAN. An employee in the classified
150 service under the Merit System Act approved by the State
151 Personnel Board to perform the duties of highway patrolman or
152 a beverage control agent or a crime investigator. The term
153 includes any employee ~~hired by~~ of the Alabama State Law
154 Enforcement Agency ~~after January 1, 2015,~~ who is certified by
155 the Alabama Peace Officers' Standards and Training Commission
156 and performs law enforcement duties. ~~Such an employee of the~~
157 ~~Alabama State Law Enforcement Agency shall pay the same~~
158 ~~employee contribution rate as and receive the same benefits as~~
159 ~~Tier II law enforcement officers, as defined by Section~~
160 ~~36-27-59(a)(3).~~ The term shall not include a member employed
161 as a policeman under Section 36-27-6.

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

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

166 (26) TIER I PLAN MEMBER. Any member of the Retirement
167 System who had service for which he or she received credit in
168 the Employees' Retirement System or in the Teachers'



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169 Retirement System prior to January 1, 2013.

170 (27) TIER II PLAN MEMBER. Any member of the Retirement
171 System who first began eligible employment with an Employees'
172 Retirement System or a Teachers' Retirement System
173 participating employer on or after January 1, 2013, and who
174 had no eligible service in the Employees' Retirement System or
175 the Teachers' Retirement System prior to January 1, 2013."

176 "§36-27-16

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

179 a. Any Tier I plan member who withdraws from service
180 upon or after attainment of age 60 and any Tier II plan member
181 who withdraws from service upon or after attainment of age 62
182 may retire upon written application to the Board of Control
183 setting forth at what time, not less than 30 days nor more
184 than 90 days subsequent to the execution and filing thereof,
185 he or she desires to be retired; provided, that any such
186 member who became a member on or after October 1, 1963, shall
187 have completed 10 or more years of creditable service;
188 provided further, that a Tier I or Tier II plan member
189 employed as a state policeman shall be eligible to file
190 application for service retirement upon attaining age 52 and a
191 Tier II plan member employed as ~~a state policeman or employed~~
192 ~~as~~ a correctional officer, firefighter, or law enforcement
193 officer as defined in Section 36-27-59 with at least 10 years
194 of creditable service as a correctional officer, firefighter,
195 or law enforcement officer shall be eligible to file
196 application for service retirement upon attaining age 56.



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197 b. Any Tier I plan member who has attained age 60, or
198 age 52 in the case of a state policeman and any Tier II plan
199 member who has attained age 62, or age ~~56~~ 52 in the case of a
200 state policeman, or age 56 in the case of a correctional
201 officer, firefighter, or law enforcement officer as defined in
202 Section 36-27-59 who has at least 10 years of creditable
203 service as a correctional officer, firefighter, or law
204 enforcement officer, and has previously withdrawn from service
205 may retire upon written application to the Board of Control
206 setting forth at what time, not less than 30 days nor more
207 than 90 days subsequent to the execution and filing thereof,
208 he or she desires to be retired; provided, the member shall
209 have at the time of his or her withdrawal from service
210 completed the age and service requirements established by the
211 Board of Control for eligibility for deferred benefits;
212 provided, that the minimum number of years of creditable
213 service shall not be less than 10 years nor more than 25
214 years.

215 c. In addition to any law or part of law relating to
216 service retirement under the Employees' Retirement System of
217 Alabama, any Tier I plan member of the Employees' Retirement
218 System or Tier II plan member employed as a state policeman
219 who withdraws from service after completion of not less than
220 25 years of creditable service, or any Tier II plan member who
221 withdraws from service after completion of not less than 30
222 years of creditable service, may retire without a reduction in
223 retirement allowance upon written application to the Board of
224 Control of the Employees' Retirement System setting forth the



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225 first day of which month, not less than 30 days or more than
226 90 days subsequent to the execution and filing thereof, he or
227 she desires to be retired, provided that no person whose
228 employer participates in the Employees' Retirement System
229 under Section 36-27-6 shall be entitled to the benefits
230 provided in this paragraph for Tier I members unless the
231 employer elects to come under the provisions of the paragraph.
232 Any employer making this election must bear the cost of the
233 benefit.

234 (2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

235 a. Upon retirement from service, a Tier I plan member
236 shall receive a service retirement allowance which shall
237 consist of:

238 1. An annuity which shall be the actuarial equivalent
239 of his or her accumulated contributions at the time of his or
240 her retirement; except, that in the case of a state policeman
241 who has completed 20 years of creditable service as a state
242 policeman who retires after age 56 but prior to age 60, the
243 annuity shall be equal to the annuity that would have been
244 payable upon service retirement at age 60 had the member
245 continued in service to age 60 without change in compensation;

246 2. A pension which shall be equal to the annuity
247 allowance at age of retirement, but not to exceed an annuity
248 allowable at age 65, computed on the basis of contributions
249 made prior to attainment of age 65; except, that in the case
250 of a state policeman who has completed 20 years of creditable
251 service as a state policeman who retires after age 56 but
252 prior to age 60, the pension shall be equal to the annuity



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253 that he or she would have received had he or she contributed
254 to age 60 without change in compensation; and

255 3. An additional pension, if he or she has a prior
256 service certificate in full force and effect, which shall be
257 equal to the annuity which would have been provided at the age
258 of retirement, but which shall not exceed an annuity allowable
259 at age 65 by twice the contributions which he or she would
260 have made during the period of prior service with which he or
261 she is credited had the system been in operation and had he or
262 she contributed thereunder; except, that in case of a state
263 policeman who has completed 20 years of creditable service as
264 a state policeman who retired after age 56 but prior to age
265 60, an additional pension, if he or she has a prior service
266 certificate in full force and effect, which shall be equal to
267 the annuity which would have been provided at age 60, but
268 which shall not exceed an annuity allowable at age 60 by twice
269 the contributions which he or she would have made during the
270 period of prior service with which he or she is credited had
271 the system been in operation and had he or she contributed
272 thereunder.

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

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



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

284 3. An additional pension, if he or she has a prior
285 service certificate in full force and effect, which shall be
286 equal to the annuity which would have been provided at the age
287 of retirement, but which shall not exceed an annuity allowable
288 at the age of retirement plus four years by twice the
289 contributions which he or she would have made during the
290 period of prior service with which he or she is credited had
291 the system been in operation and had he or she contributed
292 thereunder. In lieu of a determination of the actual
293 compensation of a member that was received during that prior
294 service, the Board of Control may use for the purpose of this
295 article the compensation rate which, if it had progressed with
296 the rates of salary increase shown in the tables as prescribed
297 in subsection (n) of Section 36-27-23, would have resulted in
298 the same average salary of the member for the five years
299 immediately preceding the date of establishment as the records
300 show the member actually received.

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

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



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

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

317 1. Two and seven-eighths percent of the member's
318 average final compensation multiplied by the number of years
319 of his or her creditable service. Creditable service for any
320 state policeman under the age of 56 years who has completed 20
321 years of creditable service as a state policeman shall include
322 a bonus equal to four additional years. Creditable service for
323 a state policeman 56 years or older shall include a bonus
324 equal to the years or portion thereof remaining until the
325 member reaches age 60; or

326 2. If he or she became a member before October 1, 1965,
327 eighty-six dollars forty cents (\$86.40) multiplied by the
328 number of years of his or her creditable service not in excess
329 of 25 years; provided, however, that if the member has
330 completed 20 years of creditable service as a state policeman
331 and has not attained age 60 at the time of retirement, the
332 pension shall be determined as provided in this subparagraph
333 on the basis of the number of years of creditable service
334 which he or she would have had if he or she had remained in
335 service for four years, except that, in the case of those
336 state policemen retiring at age 56 or after, the number of



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337 years in determining the pension shall not exceed the number
338 of years of creditable service which he or she would have had
339 if he or she had remained in service to age 60.

340 e. Upon retirement from service, a Tier II plan member
341 who is not employed as a state policeman shall receive a
342 service retirement allowance which shall consist of an annuity
343 which shall be the actuarial equivalent of the member's
344 accumulated contributions at the time of retirement and a
345 pension which, when added to the member's annuity, shall be
346 equal to one and sixty-five hundredths percent (1.65%) of the
347 member's average final compensation multiplied by the number
348 of years of creditable service. The service retirement
349 allowance for a member who retires with 30 years of creditable
350 service before reaching the age of 62 shall be reduced by two
351 percent (2%) for each year of the difference between age 62
352 and the age at retirement of the member. Notwithstanding the
353 foregoing, the service retirement allowance shall not exceed
354 eighty percent (80%) of the member's average final
355 compensation.

356 f. Upon retirement from service, a Tier II plan member
357 who is employed as a state policeman shall receive a service
358 retirement allowance which shall consist of an annuity which
359 shall be the actuarial equivalent of the member's accumulated
360 contributions at the time of retirement and a pension which,
361 when added to the member's annuity, shall be equal to two and
362 three-eighths percent (2.375%) of the member's average final
363 compensation multiplied by the member's number of years of
364 creditable service. The service retirement allowance for a



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365 member who retires with 30 years of creditable service before
366 reaching the age of 62 shall be reduced by two percent (2%)
367 for each year of the difference between age 62 and the age at
368 retirement of the member. Notwithstanding the foregoing, the
369 service retirement allowance shall not exceed eighty percent
370 (80%) of the member's average final compensation. Creditable
371 service for any Tier II plan member who is employed as a state
372 policeman shall include one year of hazardous duty time for
373 every five years of service as a state policeman.

374 g. Anything in this article to the contrary
375 notwithstanding, in the application of the foregoing
376 provisions of this subdivision to a member whose creditable
377 service includes a period of service as a state policeman and
378 a period of service in another employment classification, the
379 benefit rates applicable to a member employed as a state
380 policeman shall apply to all creditable service as a state
381 policeman, and the benefit rates applicable to a member not
382 employed as a state policeman shall apply to all creditable
383 service, but in all other respects the pension under this
384 subdivision shall be determined on the basis of the member's
385 employment classification at the time of his or her withdrawal
386 from service.

387 h. The annual service retirement pension payable to any
388 state employee who had attained age 60 on or before October 1,
389 1945, who declined membership in the Employees' Retirement
390 System of Alabama in the manner prescribed in Section 36-27-4
391 and who retires as a state employee after completing a minimum
392 of 15 years' service shall be seventy-two dollars (\$72)



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393 multiplied by the number of years of his or her service not in
394 excess of 25 years.

395 (b) (1) RETIREMENT OF DISABLED EMPLOYEES; ELIGIBILITY
396 FOR DISABILITY RETIREMENT BENEFITS.

397 a. Upon application of a Tier I plan member in service
398 or of his or her employer, any member who has had 10 or more
399 years of creditable service who becomes disabled may be
400 retired on a disability retirement allowance by the Board of
401 Control not less than 30 nor more than 90 days next following
402 the date of filing of the application; provided, that the
403 medical board, after a medical examination of the member,
404 shall certify that the member is mentally or physically
405 incapacitated for the further performance of duty, that the
406 incapacity is likely to be permanent and that the member
407 should be retired. Upon the application of a Tier II plan
408 member in service or his or her employer, any member who has
409 had 10 or more years of creditable service may be retired by
410 the Board of Control on a disability retirement allowance not
411 less than 30 nor more than 90 days next following the date of
412 filing the application; provided, that the medical board,
413 after a medical examination of the member, shall certify that
414 the member is totally and permanently mentally or physically
415 incapacitated from regular and substantial gainful employment,
416 and that member should be retired.

417 b. Without regard to the number of years of creditable
418 service, a member employed as a state policeman, a municipal
419 police officer or a deputy sheriff, or a member employed as a
420 state, municipal, or county firefighter who is not covered



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421 through his or her current employer under the United States
422 Social Security Act, who as a result of his or her employment,
423 in the line of duty and not as a result of his or her own
424 misconduct, shall become permanently and totally disabled to
425 the extent that he or she cannot perform his or her duties or
426 duties of a less strenuous nature, as an employee of the State
427 of Alabama or as an employee of an employer participating
428 under the provisions of Section 36-27-6, shall be retired on a
429 disability retirement allowance, not less than 30 nor more
430 than 90 days next following the date of filing of the
431 application, provided that the medical board, after a medical
432 examination of the member shall certify that the member is
433 mentally or physically incapacitated for the further
434 performance of duty, that the incapacity is likely to be
435 permanent, and that the member should be retired.

436 (2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

437 a. Upon retirement for disability a member shall
438 receive a service retirement allowance based on age and
439 service if he or she is a Tier I plan member and he or she has
440 attained age 60 or if he or she is ~~a Tier II plan member and~~
441 ~~he or she has attained age 62, or if any law or part of any~~
442 ~~law pertaining to retirement under the Employees' Retirement~~
443 ~~System of Alabama provides for service retirement after the~~
444 ~~completion of 25 years of creditable service or 30 years of~~
445 ~~creditable service without a reduction in the retirement~~
446 ~~allowance and the member has completed 25 years of creditable~~
447 ~~service or 30 years of creditable service, whichever is~~
448 ~~applicable, or, in the case of a state policeman, if he or she~~



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449 ~~is a Tier I plan member and he or she has attained age 52 or,~~
450 ~~in the case of a state policeman or a correctional officer,~~
451 ~~firefighter, or law enforcement officer as defined in Section~~
452 ~~36-27-59 with at least 10 years of creditable service as a~~
453 ~~correctional officer, firefighter, or law enforcement officer,~~
454 ~~if he or she is a Tier II plan member and he or she has~~
455 ~~attained age 56~~ otherwise eligible to retire; otherwise, he or
456 she shall receive a disability retirement allowance which
457 shall consist of:

458 1. An annuity which shall be the actuarial equivalent
459 of his or her accumulated contributions at the time of his or
460 her retirement;

461 2. A pension which shall be equal to the pension that
462 would have been payable under subparagraphs (a)(2)a.2. and
463 (a)(2)a.3. of this section upon service retirement at age 65
464 had the member continued in service to that age without change
465 in compensation.

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

471 1. Two and one-eightieth percent of the member's
472 average final compensation multiplied by the number of years
473 of creditable service.

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



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

482 1. Two and seven-eighths percent of the member's
483 average final compensation multiplied by the number of years
484 of his or her creditable service. Creditable service for any
485 state policeman under the age of 56 years who has completed 20
486 years of creditable service as a state policeman shall include
487 a bonus equal to four additional years. Creditable service for
488 a state policeman 56 years or older shall include a bonus
489 equal to the years or portion thereof remaining until the
490 member reaches age 60; or

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

495 d. The annual disability retirement allowance payable
496 to a Tier II plan member not employed as a state policeman
497 shall be equal to one and sixty-five hundredths percent
498 (1.65%) of the member's average final compensation multiplied
499 by the number of years of creditable service.

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



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505 f. Anything in this chapter to the contrary
506 notwithstanding in the application of the provisions of this
507 subdivision to a member whose creditable service includes a
508 period of service as a state policeman and a period of service
509 in another employment classification the benefit rates
510 applicable to a member employed as a state policeman shall
511 apply to all creditable service as a state policeman, and the
512 benefit rates applicable to a member not employed as a state
513 policeman shall apply to all other creditable service, but in
514 all other respects the pension under this subdivision shall be
515 determined on the basis of the member's employment
516 classification at the time of his or her withdrawal from
517 service.

518 (3) REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT
519 OF DISABILITY. Once each year during the first five years
520 following the retirement of a member on a disability
521 retirement allowance and once every three-year period
522 thereafter, the Board of Control may, and upon his or her
523 application shall, require any disability beneficiary who has
524 not yet attained age 60 if the beneficiary is a Tier I plan
525 member or age 62 if the beneficiary is a Tier II plan member
526 to undergo a medical examination, the examination to be made
527 at the place of residence of the beneficiary or other place
528 mutually agreed upon by a physician or physicians of or
529 designated by the medical board. Should any disability
530 beneficiary who has not yet attained age 60, if the
531 beneficiary is a Tier I plan member or age 62, if the
532 beneficiary is a Tier II plan member, refuse to submit to the



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533 medical examination, his or her allowance may be discontinued
534 until his or her withdrawal of the refusal, and, should his or
535 her refusal continue for one year, all his or her rights in
536 and to his or her pension may be revoked by the Board of
537 Control; provided, that these requirements relative to the
538 medical examination shall not apply in the case of a state
539 policeman retired for disability and who has attained age 52
540 ~~if he or she is a Tier I plan member~~ or in the case of ~~a state~~
541 ~~policeman or~~ a correctional officer, firefighter, or law
542 enforcement officer as defined in Section 36-27-59 with at
543 least 10 years of creditable service as a correctional
544 officer, firefighter, or law enforcement officer retired for
545 disability who has attained age 56 if he or she is a Tier II
546 plan member. Should the medical board report and certify to
547 the Board of Control that a disability beneficiary who is a
548 Tier I plan member is engaged in or is able to engage in a
549 gainful occupation paying more than the difference between his
550 or her retirement allowance and his or her average final
551 compensation and should the Board of Control concur in the
552 report, then the amount of his or her pension shall be reduced
553 to an amount which, together with his or her annuity and the
554 amount earnable by him or her, shall equal the amount of his
555 or her average final compensation. Should his or her earning
556 capacity be later changed, the amount of his or her pension
557 may be further modified; provided, that the new pension shall
558 not exceed the amount of the pension originally granted nor an
559 amount which, when added to the amount earnable by the
560 beneficiary, together with this annuity exceeds the amount of



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561 his or her average final compensation.

562 Should the medical board report and certify to the
563 Board of Control that a disability beneficiary who is a Tier
564 II plan member has the capacity to engage in regular and
565 substantial gainful employment, the Board of Control shall
566 discontinue the beneficiary's retirement allowance until the
567 beneficiary is otherwise eligible for service retirement.

568 (c) Disposition of contributions and allowances upon
569 death, etc., of member.

570 (1) Should a member cease to be an employee except by
571 death or by retirement under the provisions of this article,
572 the contributions standing to the credit of his or her
573 individual account in the Annuity Savings Fund shall be paid
574 to him or her upon demand and, in addition to the payment,
575 there shall be paid five-tenths of the interest accumulations
576 standing to the credit of his or her individual account if he
577 or she shall have not less than three but less than 16 years
578 of membership service, six-tenths of the interest
579 accumulations if he or she shall have not less than 16 but
580 less than 21 years of membership service, seven-tenths of the
581 interest accumulations if he or she shall have not less than
582 21 but less than 26 years of membership service and
583 eight-tenths of the interest accumulations if he or she shall
584 have not less than 26 years of membership service.

585 (2) In case of the death of a member eligible for
586 service retirement pursuant to subsection (a), an allowance
587 shall be paid to the surviving spouse, if designated as the
588 sole beneficiary, in an amount that would have been payable if



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589 the member had retired immediately prior to his or her death
590 and had elected Option 2, as set forth in subsection (d), or
591 to such other person who the member shall have designated, in
592 an amount that would have been payable if the member had
593 retired immediately prior to his or her death and had elected
594 Option 3, as set forth in subsection (d). Alternatively, if
595 the surviving spouse or other designee desires, he or she may
596 choose to receive, in lieu of the allowance provided under
597 Option 2 or Option 3, the accumulated contributions of the
598 member plus an amount equal to the accumulated contributions
599 of the member not to exceed five thousand dollars (\$5,000) or
600 the accumulated contributions of the member plus the benefit
601 provided by Section 36-27B-3 if a benefit is payable under
602 that section;

603 (3) In case of the death of a Tier I plan member not
604 eligible for service retirement, after completion of 25 years
605 of creditable service, an allowance shall be paid to the
606 surviving spouse, if designated as the sole beneficiary, in an
607 amount that would have been payable if the member had retired
608 immediately prior to his or her death and had elected Option
609 2, as set forth in subsection (d), or to such other person who
610 the member shall have designated, in an amount that would have
611 been payable if the member had retired for disability
612 immediately prior to his or her death and had elected Option 3
613 as set forth in subsection (d). Alternatively, if the
614 surviving spouse or other designee desires, he or she may
615 choose to receive, in lieu of the allowance provided under
616 Option 2 or Option 3, the accumulated contributions of the



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617 member plus an amount equal to the accumulated contributions
618 of the member not to exceed five thousand dollars (\$5,000) or
619 the accumulated contributions of the member plus the benefit
620 provided by Section 36-27B-3 if a benefit is payable under
621 that section. For purposes of this subsection only, hazardous
622 duty time, as set forth in subdivision (b)(1) of Section
623 36-27-59, may be used in calculating the requisite years of
624 service for firefighters, law enforcement officers, and
625 correctional officers even if the member has not otherwise
626 attained 25 years of creditable service;

627 (4) Upon the death of a member on account of whom no
628 survivor allowance is payable under subdivisions (2) or (3) of
629 this subsection, the accumulated contributions of the member
630 plus an amount equal to the accumulated contributions not to
631 exceed five thousand dollars (\$5,000) or the accumulated
632 contributions of the member plus the benefit provided by
633 Section 36-27B-3 if a benefit is payable under that section
634 shall be paid to his or her estate or to such person as he or
635 she shall have nominated by written designation duly executed
636 and filed with the Board of Control.

637 (d) Optional allowances. With the provision that the
638 election of an option shall be effective on the effective date
639 of retirement, any member may elect prior to retirement to
640 receive, in lieu of his or her retirement allowance payable
641 throughout life, the actuarial equivalent, at that time, of
642 his or her retirement allowance in a reduced retirement
643 allowance payable throughout life with the provisions that:

644 (1) OPTION 1. If he or she dies before he or she has



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645 received in annuity payments the present value of his or her
646 annuity as it was at the time of his or her retirement, the
647 balance shall be paid to his or her legal representatives or
648 to the person as he or she shall nominate by written
649 designation duly acknowledged and filed with the Board of
650 Control;

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

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

661 (4) OPTION 4. Some other benefit or benefits shall be
662 paid either to the member or to the person or persons as he or
663 she shall nominate; provided, that those other benefits,
664 together with the reduced retirement allowance, shall be
665 certified by the actuary to be of equivalent actuarial value
666 to his or her retirement allowance and shall be approved by
667 the Board of Control ~~;~~ or

668 (5) OPTION 5. At the time of retirement, he or she
669 shall receive a partial lump sum distribution as a single
670 payment not to exceed the sum of 24 months of the maximum
671 monthly retirement allowance the member could receive. This
672 option may be elected in addition to the election of another



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673 option under this subsection and the further reduced monthly
674 retirement allowance shall be calculated in accordance with
675 the selected option. This option shall not be available to a
676 member who is receiving a disability retirement.

677 (e) Effect of return to active service. Should any
678 beneficiary be restored to active service, his or her
679 retirement allowance shall be suspended until he or she again
680 withdraws from service and he or she shall not again become a
681 member of the retirement system nor shall he or she make
682 contributions; except, that should the beneficiary who has
683 been restored to active service continue in service for a
684 period of two or more years from the date of his or her
685 reentry into active service, he or she may request the Board
686 of Control to allow him or her to again become a member of the
687 retirement system. The Board of Control may grant the request
688 for restoration to membership; provided, that the beneficiary
689 whose retirement allowance has been suspended shall repay to
690 the system all monies received by him or her as benefits
691 during any periods subsequent to the date of his or her
692 reentry into active service and shall make a contribution
693 equal to the amount he or she would have contributed had he or
694 she been a member during the period of his or her restoration
695 to active service on a suspended allowance basis together with
696 the interest that would have been credited to the
697 contributions on account of the period of restoration up to
698 the date the contribution is made.

699 (f) (1) REDETERMINATION, ETC., OF CERTAIN ALLOWANCES.
700 All retirement allowance payments due on or after October 1,



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701 1975, to members who retired prior to that date shall be
702 redetermined as if the provisions of this section in effect on
703 October 1, 1975, were in effect at the time the member
704 retired. Anything in this article to the contrary
705 notwithstanding, the annual retirement allowance of any member
706 not employed as a state policeman who retired on or before
707 January 1, 1956, shall not be less than seventy-nine dollars
708 twenty cents (\$79.20) multiplied by the number of years of his
709 or her creditable service not in excess of 30 years in the
710 case of service retirement of fifty-nine dollars forty cents
711 (\$59.40) multiplied by the number of years of his or her
712 creditable service not in excess of 30 years in the case of
713 disability retirement. Any increase provided in the retirement
714 allowance payment under this subdivision for a member who
715 retired under the provisions of any optional benefit elected
716 pursuant to subsection (d) shall accrue only to the retired
717 member, and no person designated to receive any payments after
718 the death of a retired member under the provisions of any
719 optional benefit shall receive any increase in payments under
720 this subdivision. Notwithstanding, any member who retired
721 prior to October 1, 1975, and who chose either Option 2 or
722 Option 3 may elect to receive a reduced allowance and to
723 stipulate that the actuarial equivalent of the increase in his
724 or her retirement allowance, which became effective on that
725 date, be ascribed to his or her designated beneficiary;
726 provided, that the member shall clearly express this intention
727 by filing a written application to the effect with the
728 Secretary-Treasurer of the Employees' Retirement System of



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729 Alabama prior to October 1, 1976.

730 (2) Any person who, prior to October 1, 1963, was in
731 receipt of a benefit pursuant to Act No. 376, approved
732 November 6, 1959, but was not a member of the system at the
733 time of retirement shall not be entitled to receive an annual
734 retirement allowance from the system, effective October 1,
735 1971, as follows:

736 a. If the person was retired on or before January 1,
737 1956, an amount equal to seventy-nine dollars twenty cents
738 (\$79.20) multiplied by the number of years of his or her
739 creditable service not in excess of 30 years.

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

744 (3) Prior to October 31, 1975, any beneficiary may
745 elect to leave on deposit with the system all or a specified
746 part of any increase in his or her monthly retirement
747 allowance payments arising in accordance with subdivisions (1)
748 or (2) of this subsection over the monthly allowance which he
749 or she was receiving prior to October 1, 1975. The portion of
750 each monthly payment left in the system in accordance with the
751 election shall be credited, together with regular interest
752 thereon, to the individual account of the beneficiary. Upon
753 the death of the beneficiary the total amount standing to his
754 or her credit, including regular interest to the date of
755 death, shall be paid in a lump sum to his or her legal
756 representatives or to such person as he or she shall have



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757 nominated by written designation duly acknowledged and filed
758 with the Board of Control.

759 (g) Notwithstanding any other provisions of this
760 section to the contrary, when a designated beneficiary for a
761 member predeceases the member who is receiving a monthly
762 benefit allowance provided under Option 2, 3, or 4, the member
763 may designate a replacement beneficiary for the deceased
764 beneficiary to become effective two years after the date of
765 designation of the replacement beneficiary and an actuarial
766 adjustment in the monthly benefit allowance of the member to
767 cover any cost associated with designating a replacement
768 beneficiary shall be reflected thereafter in the monthly
769 benefit allowance received by the member, commencing with the
770 first benefit allowance check received by the member following
771 the date of designation of the replacement beneficiary.

772 (h) Notwithstanding any provision of this section to
773 the contrary, if a retired member who is receiving a monthly
774 benefit allowance provided under Option 2, 3, or 4 divorces
775 his or her designated beneficiary, the member may designate a
776 replacement beneficiary for the beneficiary to become
777 effective two years after the date of designation of the
778 replacement beneficiary and an actuarial adjustment in the
779 monthly benefit allowance of the member to cover any cost
780 associated with designating a replacement beneficiary shall be
781 reflected thereafter in the monthly benefit allowance received
782 by the member, commencing with the first benefit allowance
783 check received by the member following the date of designation
784 of the replacement beneficiary.



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

789 "§41-27-7

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

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

796 (c) All persons employed on January 1, 2015, with a
797 legacy agency and transferred to the Alabama State Law
798 Enforcement Agency, Department of Public Safety, or State
799 Bureau of Investigations shall maintain his or her
800 classification and benefits under the legacy agency. A person
801 employed by a legacy agency on January 1, 2015, shall not
802 receive a decrease in salary, benefits, or seniority or
803 otherwise receive a decrease in classification as a result of
804 the transfer to the Alabama State Law Enforcement Agency,
805 Department of Public Safety, or State Bureau of
806 Investigations.

807 (d) Any future change in classification shall not
808 result in any change in benefits an employee previously had at
809 a legacy agency.

810 (e) An employee of a legacy agency transferred to the
811 Alabama State Law Enforcement Agency, Department of Public
812 Safety, or State Bureau of Investigations under this article



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813 shall remain in his or her current classification unless
814 appointed to the appropriate classification within the newly
815 created department according to state Merit System procedures.

816 (f) Any employee hired ~~in~~ or transferred into the
817 Alabama State Law Enforcement Agency after January 1, 2015,
818 who is certified by the Alabama Peace Officers' Standards and
819 Training Commission and ~~performs law enforcement duties shall~~
820 ~~be considered a law enforcement officer, as defined by Section~~
821 ~~36-27-59(a)(3), but~~ is a state policeman is not eligible for
822 the benefits specified in Section 36-26-35(d)."

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