

**HB190 ENROLLED**



1 HB190  
2 XCPSZZE-3  
3 By Representative Carns (N & P)  
4 RFD: Jefferson County Legislation  
5 First Read: 20-Feb-24



## HB190 Enrolled

1 Enrolled, An Act,

2

3 Relating to the General Retirement System for Employees

4 of Jefferson County; to amend Sections 45-37-123.01,

5 45-37-123.20, 45-37-123.21, 45-37-123.22, 45-37-123.23,

6 45-37-123.24, 45-37-123.25, 45-37-123.26, 45-37-123.27,

7 45-37-123.28, 45-37-123.29, 45-37-123.50, 45-37-123.54,

8 45-37-123.80, 45-37-123.82, 45-37-123.83, 45-37-123.84,

9 45-37-123.100, 45-37-123.101, 45-37-123.102, 45-37-123.103,

10 45-37-123.104, 45-37-123.106, 45-37-123.108, 45-37-123.132,

11 45-37-123.150, 45-37-123.191, 45-37-123.194, and

12 45-37-123.195, Code of Alabama 1975; to clarify who is a

13 designated beneficiary; to identify the Personnel Board of

14 Jefferson County as the civil service system of Jefferson

15 County; to define missing participants and missing

16 beneficiaries as a participant or beneficiary whose

17 whereabouts are unknown to the system or who is nonresponsive;

18 to clarify categories of membership and benefits; to clarify

19 that all members who are not vested are nonvested; to clarify

20 that a member's benefit becomes partially vested and

21 nonforfeitable upon 10 years of paid service and fully vested

22 and nonforfeitable upon 15 years of paid service; to

23 accurately reflect the method by which the county remits

24 employer and employee contributions to the system; to

25 authorize the pension board to pay any sums reasonably

26 necessary to defray administrative expenses of the plan before

27 remitting employer and employee contributions to the trust

28 fund; to establish additional qualifications and procedures



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29 for individuals elected or appointed to serve on the pension  
30 board; to provide for electronic forms and notice; to clarify  
31 that the election of pension board members number four and  
32 five are supervised by members volunteering to serve as the  
33 election board; to clarify that only a beneficiary designated  
34 by the member shall constitute a beneficiary under the plan;  
35 to authorize the pension board to adopt rules and regulations  
36 for the administration of any benefit provided by the plan  
37 subject to applicable law; to authorize the pension board to  
38 suspend and reinstate benefits to missing participants and  
39 missing beneficiaries; to provide the pension board with the  
40 authority to authorize the plan to defend and indemnify the  
41 pension board and each of its individual members, employees of  
42 the system, and the system as a legal entity separate and  
43 distinct from the plan from claims, actions, or judgments  
44 connected with or arising from decisions, acts, or omissions  
45 undertaken within the scope of its or their official capacity  
46 in furtherance of the purposes for which the system is  
47 established to the extent allowed by applicable law and  
48 Section 401(a), Internal Revenue Code; to authorize the  
49 pension board to interplead funds into a court of competent  
50 jurisdiction when the pension board cannot determine the owner  
51 of those funds or for any other reason allowed under  
52 applicable law; to clarify that records and data of the system  
53 are not public records; to clarify that payment of benefits  
54 and administrative expenses from the trust fund is subject to  
55 the prohibition against diversion of funds for any purpose  
56 other than the exclusive benefit of members; to authorize the



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57 pension board to remit certain contributions to a system  
58 depository account to be treated as general assets of the  
59 system as a legal entity separate and distinct from the plan  
60 and its trust; to authorize the payment of benefits and  
61 expenses of administration from the general assets of the  
62 system as a legal entity separate and distinct from the plan  
63 and its trust; to clarify that three affirmative votes are  
64 required for the pension board to act; to provide that in the  
65 event a mandatory member subsequently occupies a position not  
66 subject to the Personnel Board of Jefferson County, the member  
67 shall remain a mandatory and contributing member of the  
68 system; to clarify that an employee eligible for optional  
69 membership must exercise the option in writing; to remove  
70 provisions prohibiting an active member from remaining a  
71 participant in the plan after the member elects to participate  
72 in another plan; to remove provisions related to the  
73 conversion of unpaid membership time to paid membership time;  
74 to remove certain provisions relating to the forfeiture of  
75 certain pension benefits and employee contributions; to  
76 clarify when a reemployed member begins to accrue benefits; to  
77 clarify that a member may terminate employee contributions  
78 upon reaching 30 years of paid service regardless of whether  
79 the member has accumulated sufficient service to entitle the  
80 member to the maximum benefit available under the plan; to  
81 provide that the hourly equivalent of one-half month of work  
82 is sufficient to entitle a member to one month of service; to  
83 clarify that the payment of benefits does not commence until  
84 the member or the member's designated beneficiary executes all



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85 necessary forms required by the pension board; to provide that  
86 disability benefits are only authorized for permanent  
87 disabilities arising on or before separation from employment  
88 with the county; to clarify certain conditions for eligibility  
89 to receive a disability benefit; to clarify a disabled  
90 member's membership status upon reemployment by Jefferson  
91 County; to provide that procedures for proving a common law  
92 marriage are applicable only to a marriage entered into before  
93 January 1, 2017; to remove certain provisions terminating a  
94 member's right to a benefit; to remove certain provisions  
95 disqualifying a member from receiving benefits; to provide  
96 that vested pension benefits are nonforfeitable; to add  
97 Section 45-37-123.31 to the Code of Alabama 1975, to clarify  
98 the scope of immunity afforded to the system, the pension  
99 board, and the individual members of the pension board, and  
100 the employees of the system, when acting in its or their  
101 official capacity; to add Section 45-37-123.110 to the Code of  
102 Alabama 1975, to allow the pension board to adopt procedures  
103 for the forfeiture and restoration of benefits and employee  
104 contributions for missing participants and missing  
105 beneficiaries whose whereabouts are unknown to the system or  
106 who are nonresponsive; to provide that, during any period of  
107 forfeiture, a missing participant or missing beneficiary shall  
108 not be treated as a member under the plan; to make technical  
109 corrections; to repeal Sections 45-37-123.52 and 45-37-123.53,  
110 providing for termination of eligibility and the conversion of  
111 unpaid membership time to paid membership time; and to provide  
112 for an effective date.



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113 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

114 Section 1. Sections 45-37-123.01, 45-37-123.20,  
115 45-37-123.21, 45-37-123.22, 45-37-123.23, 45-37-123.24,  
116 45-37-123.25, 45-37-123.26, 45-37-123.27, 45-37-123.28,  
117 45-37-123.29, 45-37-123.50, 45-37-123.54, 45-37-123.80,  
118 45-37-123.82, 45-37-123.83, 45-37-123.84, 45-37-123.100,  
119 45-37-123.101, 45-37-123.102, 45-37-123.103, 45-37-123.104,  
120 45-37-123.106, 45-37-123.108, 45-37-123.132, 45-37-123.150,  
121 45-37-123.191, 45-37-123.194, and 45-37-123.195 of the Code of  
122 Alabama 1975, are amended to read as follows:

123 "§45-37-123.01

124 For the purposes of this part, the following terms  
125 shall have the following meanings:

126 (1) ACT. The act adding this part, to be called the  
127 General Retirement System for Employees of Jefferson County  
128 Act.

129 (2) ACTIVE MEMBER. An individual who currently is  
130 employed by the county or other entities set forth in  
131 subdivision (20) and is making employee contributions to the  
132 system pursuant to Section 45-37-123.82.

133 (3) ACTUARIAL EQUIVALENT. Effective July 30, 1984, or  
134 such other dates as set forth in Exhibit A to the plan  
135 document, which is maintained in the office of the pension  
136 board, a form of benefit differing in time, period, or manner  
137 of payment from a specific benefit provided under the plan but  
138 having the same value when computed using the mortality  
139 tables, the interest rate, and any other assumptions last  
140 adopted by the pension board, which assumptions shall clearly



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141 preclude any discretion in the determination of the amount of  
142 a member's benefit.

143 (4) ACTUARIAL GAIN. As defined in Section  
144 45-37-123.106(f)(1).

145 (5) ANNUITY STARTING DATE. As used in Subpart 6 and in  
146 Section 45-37-123.106, means, with respect to any member, the  
147 first day of the first period for which an amount is paid as  
148 an annuity, or, in the case of a benefit not payable in the  
149 form of an annuity, the first day on which all events have  
150 occurred which entitles the member to such benefit.

151 (6) BASIC AVERAGE SALARY. Generally means, effective as  
152 of February 1, 2010, the monthly compensation of a member  
153 averaged over the period of 36 consecutive months of paid  
154 membership time during which such member's average monthly  
155 compensation was higher than any other period of 36  
156 consecutive months of paid membership time. For example, if a  
157 member terminated employment on June 20, 2010, and his or her  
158 highest consecutive ~~36-month~~ 36-month period ends on the  
159 member's date of termination of employment, then the measuring  
160 period for determining basic average salary would be from June  
161 21, 2007, through June 20, 2010. The following rules shall  
162 apply in calculating basic average salary:

163 a. Daily Compensation Calculation. Subject to the  
164 additional rules stated in this subdivision, the compensation  
165 earned in each year, or portion of a year, during the 36-month  
166 period shall be determined on a daily basis. The total of the  
167 compensation earned in each applicable year, or portion  
168 thereof, shall be added together and then divided by 36 to



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169 arrive at the member's basic average salary. If the foregoing  
170 process is not workable in some situations, then the pension  
171 board shall approve a different method which is reasonable  
172 given the terms of the act and the individual circumstances.

173 b. Use of Unpaid Membership Time. The compensation paid  
174 to a member during unpaid membership time shall only be  
175 considered in determining the member's basic average salary  
176 for periods of employment prior to August 16, 1996.

177 c. Tacking of Nonconsecutive Paid Membership Time.  
178 Separate periods of paid membership time may be tacked and  
179 considered as consecutive if the member does not have any paid  
180 membership time between the periods so tacked. For example, if  
181 the member did not have any paid membership time between two  
182 periods of paid membership time due to a leave of absence, the  
183 leave of absence would be ignored in calculating basic average  
184 salary.

185 d. Post-termination. ~~Compensation. Compensation paid~~  
186 ~~subsequent to termination of participation in the system~~  
187 ~~pursuant to Section 45-37-123.52, due to ineligibility, shall~~  
188 ~~not be recognized in computing basic average salary. However,~~  
189 ~~notwithstanding~~ Notwithstanding any provisions of this plan to  
190 the contrary, a member's final paycheck from the county shall  
191 be counted in computing a member's basic average salary, but  
192 only to the extent that such paycheck constitutes  
193 compensation, and the highest consecutive ~~36 month~~ 36-month  
194 period otherwise would end on the date of the member's  
195 termination of employment.

196 (7) BENEFICIARY. The ~~person~~ individual, or entity,





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197 designated as provided in Section 45-37-123.103(d) to receive  
198 the benefits which are payable under the plan upon or after  
199 the death of a member.

200 (8) BENEFIT ENHANCEMENT. An across the board increase  
201 to a previously awarded benefit to which a member is entitled.

202 ~~(9) CIVIL SERVICE SYSTEM. The personnel system~~  
203 ~~administered and operated by the Jefferson County Personnel~~  
204 ~~Board.~~

205 ~~(10)~~ (9) COMMISSION. The Jefferson County Commission.

206 ~~(11)~~ (10) COMPENSATION.

207 a. With respect to any member means:

208 1. The regular salary or hourly wages paid to a member,  
209 based on his or her pay grade, as established by the ~~Jefferson~~  
210 ~~County~~ Personnel Board of Jefferson County, or other  
211 appropriate authority, for a calendar year ending with or  
212 within the applicable plan year including any employee  
213 contributions pursuant to Section 45-37-123.82(a);

214 2. Plus any accumulated vacation time paid by the  
215 county;

216 3. Plus Worker's Compensation benefits, only as  
217 described in subdivision ~~(59)~~ (65); and

218 4. Any differential wage payment, as defined in §  
219 3401(h)(2), Internal Revenue Code, generally relating to  
220 military pay.

221 b. Bonuses, overtime, longevity pay, paid accumulated  
222 sick leave that is paid in the form of a lump sum, uniform  
223 allowances, expense allowances, and any other nonregular forms  
224 of compensation are excluded.



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225 c. Compliance with § 401(a)(17), Internal Revenue Code.  
226 Because the transitional rule provided by Treasury Regulation  
227 § 1.401(a)(17)-1(d)(4) of the regulations issued under §  
228 401(a)(17), Internal Revenue Code, does not apply to the plan,  
229 compensation of each member taken into account in determining  
230 benefit accruals in any plan year beginning after December 31,  
231 2001, shall not exceed two hundred thousand dollars  
232 (\$200,000), or such other amount provided in the Internal  
233 Revenue Code. Such amount shall be adjusted for increases in  
234 the ~~cost of living~~cost-of-living in accordance with §  
235 401(a)(17)(B), Internal Revenue Code, except that the dollar  
236 increase in effect on January 1 of any calendar year shall be  
237 effective for the calendar years beginning with such calendar  
238 year. For any short calendar year, the compensation limit  
239 shall be an amount equal to the compensation limit for the  
240 calendar year in which the calendar year begins multiplied by  
241 the ratio obtained by dividing the number of full months in  
242 the short calendar year by 12. For purposes of determining  
243 benefit accruals in a plan year beginning after December 31,  
244 2001, compensation for any prior calendar year shall be  
245 limited to one hundred fifty thousand dollars (\$150,000) for  
246 any calendar year beginning in 1996, one hundred sixty  
247 thousand dollars (\$160,000) for any calendar year beginning in  
248 1997, 1998, or 1999; and one hundred seventy thousand dollars  
249 (\$170,000) for any calendar year beginning in 2000 or 2001.

250 ~~(12)~~(11) COUNTY. Jefferson County, Alabama, and any  
251 successor which shall maintain this plan. However, references  
252 herein to employment by the county also shall include



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253 employment by such other entities set forth in subdivision  
254 (20) and by entities for which the county is acting as payroll  
255 agent or wherein the county is being reimbursed by an entity  
256 for the compensation of such entities' workers or wherein the  
257 entity has appointing authority with respect to the workers.  
258 Accordingly, such entities' workers shall be covered by the  
259 plan to the extent allowed under the act and as determined by  
260 the pension board in its administration of the plan.

261 ~~(13)~~ (12) DEFERRED RETIREMENT BENEFIT. A benefit payable  
262 pursuant to the terms of Section 45-37-123.100(c).

263 ~~(14)~~ (13) DESIGNATED BENEFICIARY. ~~As defined~~ The  
264 individual or entity designated as provided in Section  
265 45-37-123.103(d) to receive a benefit payable under the plan  
266 upon or after the death of a member or a beneficiary, as  
267 applicable.

268 ~~(15)~~ (14) DISABILITY-~~RETIREMENT~~ BENEFIT. A benefit  
269 payable pursuant to the terms of Section 45-37-123.102.

270 (15) DISABLED MEMBER. A member who is currently  
271 receiving a disability benefit from the system pursuant to  
272 Section 45-37-123.102.

273 (16) DISTRIBUTION CALENDAR YEAR. As defined in Section  
274 45-37-123.106(f)(3).

275 (17) EARLY RETIREMENT BENEFIT. A benefit payable  
276 pursuant to the terms of Section 45-37-123.100(b).

277 (18) EFFECTIVE DATE. ~~January 1, 2010~~ May 23, 2013,  
278 except as otherwise provided.

279 (19) ELIGIBLE COST-OF-LIVING INDEX. As defined in  
280 Section 45-37-123.106(f)(4).



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281 (20) ELIGIBLE EMPLOYEE.

282 a. The following individuals affiliated with Jefferson  
283 County, Alabama, or the State of Alabama:

284 1. Any ~~person~~ individual employed by Jefferson County  
285 at a wage or salary payable at regular intervals, whether or  
286 not ~~such person~~ the individual is subject to the ~~civil service~~  
287 ~~system in operation in~~ Personnel Board of Jefferson County.

288 2. Any ~~person~~ individual elected or appointed to a job  
289 or position with or for Jefferson County, whose compensation  
290 was paid or shall be paid, in whole or in part, by Jefferson  
291 County while occupying ~~such~~ the job or position.

292 3. Any ~~person~~ individual who occupies a county office  
293 in Jefferson County that is created by an act of the  
294 Legislature of the State of Alabama or is provided for by the  
295 Constitution of Alabama of ~~1901~~ 2022, and ~~such~~ the office  
296 requires full-time service. ~~Such person~~ The individual is an  
297 eligible county office employee.

298 ~~4. Any person who is an officer or an employee of a~~  
299 ~~hospital created by Jefferson County if such person's~~  
300 ~~employment status with the hospital is such that if the person~~  
301 ~~had the same employment status with Jefferson County, he or~~  
302 ~~she would be an eligible employee. Such person is an eligible~~  
303 ~~hospital employee.~~

304 5.4. Any ~~person~~ individual employed by the General  
305 Retirement System for Employees of Jefferson County at a wage  
306 or salary payable at regular intervals, whether or not the  
307 ~~person~~ individual is subject to the ~~civil service system in~~  
308 ~~operation in~~ Personnel Board of Jefferson County.



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309 ~~6.5.~~ Any ~~person~~ individual employed by the Personnel  
310 Board of Jefferson County at a wage or salary payable at  
311 regular intervals, whether or not the ~~person~~ individual is  
312 subject to the ~~civil operation in~~ Personnel Board of Jefferson  
313 County.

314 ~~7.6.~~ Any ~~person~~ individual employed by an entity for  
315 which the county is acting as payroll agent or for which the  
316 county has agreed to be reimbursed by the entity for the  
317 compensation paid to the ~~person~~ individual, whether or not the  
318 ~~person~~ individual is subject to the ~~civil service system in~~  
319 ~~operation in~~ Personnel Board of Jefferson County.

320 b. An eligible employee shall not include:

321 1. Any ~~person~~ individual who is appointed or elected as  
322 a member of any board or commission of Jefferson County,  
323 provided that service on ~~such~~ the board or commission does not  
324 require full-time service or the members on the board or  
325 commission receive no compensation for their service except  
326 for meetings attended by them.

327 2. Any ~~person~~ individual whose employment is temporary  
328 so long as his or her employment remains temporary. ~~A person's~~  
329 An individual's employment shall be deemed to be temporary  
330 within the meaning of this subdivision if ~~such~~ the employment  
331 is temporary as defined by the ~~civil service system~~ Personnel  
332 Board of Jefferson County, or if the officers, board,  
333 commission, or agency employing ~~such person~~ the individual  
334 certifies in writing to the pension board that the employment  
335 is temporary.

336 3. Any leased employee and any independent contractor.



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337 (21) EMPLOYEE. Any ~~person~~ individual who is employed by  
338 the county or elected or appointed to a job or position with  
339 or for the county. An employee shall exclude any leased  
340 employee and any independent contractor as ~~such~~ the terms are  
341 defined by the pension board or the ~~civil service system~~  
342 Personnel Board of Jefferson County. See also subdivision ~~(12)~~  
343 (11), which covers situations in which other entities may be  
344 the employer of eligible employees.

345 (22) EMPLOYEE CONTRIBUTION. The amount a member is  
346 required to contribute to the plan as a condition of  
347 employment and participation in the plan pursuant to Section  
348 45-37-123.82 and any amount required to be treated as an  
349 employee contribution in accordance with Section  
350 45-37-123.190(b), relating to transfers from § 457(b),  
351 Internal Revenue Code, plans.

352 (23) EMPLOYER CONTRIBUTION. The amount the county is  
353 required to contribute to the plan pursuant to Section  
354 45-37-123.20(b) and Section 45-37-123.80(a).

355 (24) EXECUTIVE DIRECTOR. The individual designated by  
356 the pension board to manage the employees and day-to-day  
357 administration of the system. The individual shall not be  
358 subject to the ~~civil service system~~ Personnel Board of  
359 Jefferson County.

360 (25) FISCAL YEAR. The system's accounting year of 12  
361 months commencing on October 1 of each year and ending the  
362 following September 30.

363 (26) 415 COMPENSATION. With respect to any member means  
364 such member's wages as defined in § 3401(a), Internal Revenue



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365 Code, and all other payments of compensation by the county, in  
366 the course of the county's trade or business, for a calendar  
367 year ending with or within the plan year for which the county  
368 is required to furnish the member a written statement under §§  
369 6041(d), 6051(a)(3), and 6052, Internal Revenue Code. 415  
370 compensation shall be determined without regard to any rules  
371 under § 3401(a), Internal Revenue Code, that limit the  
372 remuneration included in wages based on the nature or location  
373 of the employment or the services performed, such as the  
374 exception for agricultural labor in § 3401(a)(2), Internal  
375 Revenue Code. Notwithstanding the above, the determination of  
376 415 compensation shall be made by including any elective  
377 deferral, as defined in § 402(g)(3), Internal Revenue Code,  
378 and any amount which is contributed by the county at the  
379 election of the member pursuant to a salary reduction  
380 agreement and which is not includible in the gross income of  
381 the member by reason of §§ 125, 132(f)(4), 402(e)(3),  
382 402(h)(1)(B), 403(b), or 457(b), Internal Revenue Code, and  
383 employee contributions described in § 414(h)(2), Internal  
384 Revenue Code, that are treated as employer contributions. For  
385 this purpose, effective January 1, 1998, amounts not  
386 includible in gross income under § 125, Internal Revenue Code,  
387 shall be deemed to include any amounts not available to a  
388 member in cash in lieu of group health coverage because the  
389 member is unable to certify that the member has other health  
390 coverage, provided the county does not request or collect  
391 information regarding the member's other health coverage as  
392 part of the enrollment process for the health plan.



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393 a. Compensation Paid After Severance from Employment.  
394 With respect to limitation years beginning on and after July  
395 1, 2007, 415 compensation shall be adjusted for the following  
396 types of compensation paid after a member's severance from  
397 employment with the county, or any other entity that is  
398 treated as the county pursuant to § 414(b), (c), (m), or (o),  
399 Internal Revenue Code~~+~~.

400 1. The following amounts shall be included in 415  
401 compensation to the extent these amounts are paid by the later  
402 of two months after severance from employment or by the end of  
403 the limitation year that includes the date of such severance  
404 from employment:

405 (i) Regular pay. 415 compensation shall include regular  
406 pay after severance from employment if:

407 A. The payment is regular compensation for services  
408 during the member's regular working hours, or compensation for  
409 services outside the member's regular working hours, such as  
410 overtime or shift differential, commissions, bonuses, or other  
411 similar payments; and

412 B. The payment would have been paid to the member prior  
413 to a severance from employment if the member had continued in  
414 employment with the county.

415 (ii) Leave cashouts. 415 compensation shall include  
416 leave cashouts if those amounts would have been included in  
417 the definition of 415 compensation if they were paid prior to  
418 the member's severance from employment, and the amounts are  
419 payment for unused accrued bona fide sick, vacation, or other  
420 leave, but only if the member would have been able to use the





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421 leave if employment had continued.

422 (iii) Deferred compensation. 415 compensation shall  
423 include deferred compensation if the compensation would have  
424 been included in the definition of 415 compensation if it had  
425 been paid prior to the member's severance from employment, and  
426 the compensation is received pursuant to a nonqualified  
427 unfunded deferred compensation plan, but only if the payment  
428 would have been paid at the same time if the member had  
429 continued in employment with the county and only to the extent  
430 that the payment is includible in the member's gross income.

431 2. The following amounts shall not be included in 415  
432 compensation:

433 (i) Salary continuation payments for military service  
434 participants. 415 compensation does not include payments to an  
435 individual who does not currently perform services for the  
436 county by reason of qualified military service to the extent  
437 those payments do not exceed the amounts the individual would  
438 have received if the individual had continued to perform  
439 services for the county rather than entering qualified  
440 military service.

441 (ii) Salary continuation payments for disabled  
442 participants. 415 compensation does not include compensation  
443 paid to a member who is permanently and totally disabled, as  
444 defined in § 22(e)(3), Internal Revenue Code.

445 b. Administrative Delay or the First Few Weeks Rule.  
446 With respect to limitation years beginning on and after July  
447 1, 2007, 415 compensation does not include amounts earned but  
448 not paid during the limitation year solely because of the



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449 timing of pay periods and pay dates.

450 c. Back Pay. With respect to limitation years beginning  
451 on and after July 1, 2007, payments awarded by an  
452 administrative agency or court or pursuant to a bona fide  
453 agreement by the county to compensate a member for lost wages  
454 are 415 compensation for the limitation year to which the back  
455 pay relates, but only to the extent such payments represent  
456 wages and compensation that would otherwise be included in 415  
457 compensation.

458 (27) INVESTMENT MANAGER. An entity that has the power  
459 to manage, acquire, or dispose of plan assets and acknowledges  
460 fiduciary responsibility to the plan in writing. ~~Such~~ The  
461 entity shall be ~~a person~~ an individual, firm, or corporation  
462 registered as an investment adviser under the Investment  
463 Advisers Act of 1940, a bank, or an insurance company.

464 (28) INVOLUNTARY DEFERRED RETIREMENT BENEFIT. A benefit  
465 payable pursuant to the terms of Section 45-37-123.100(c)(3).

466 (29) ~~IRC~~ INTERNAL REVENUE CODE. The Internal Revenue  
467 Code of 1986, as amended or replaced from time to time.

468 (30) JOINT SURVIVOR. The designated beneficiary of a  
469 deceased member who shall become a member of the system upon  
470 the deceased member's death and who is eligible to receive  
471 payment of a preretirement joint survivorship pension benefit  
472 pursuant to Section 45-37-123.103 or a postretirement joint  
473 survivorship pension benefit pursuant to Section  
474 45-37-123.101.

475 ~~(30)~~ (31) JOINT SURVIVORSHIP PENSION. Either a  
476 preretirement joint survivorship pension or a postretirement



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477 joint survivorship pension.

478 ~~(31)~~ (32) LIFE EXPECTANCY. As defined in Section  
479 45-37-123.106(f) (5).

480 ~~(32)~~ (33) MEDICAL ADVISOR. The pension board's medical  
481 advisors or other appointed physicians or vocational  
482 specialists.

483 ~~(33)~~ (34) MEMBER. Any eligible employee who, depending  
484 on the context as used throughout this plan, participates, or  
485 participated, in the plan as either an active member, a  
486 retired member, a disabled member, or the joint survivor of a  
487 deceased member who is receiving payment of a preretirement  
488 joint survivorship pension benefit pursuant to Section  
489 45-37-123.103 or a postretirement joint survivorship pension  
490 benefit pursuant to Section 45-37-123.101.

491 (35) MISSING BENEFICIARY. The designated beneficiary of  
492 a member whose whereabouts are unknown to the system or who is  
493 nonresponsive, or both.

494 (36) MISSING PARTICIPANT. A member of the system who  
495 has separated from employment with the county without refund  
496 of his or her employee contributions and whose whereabouts are  
497 unknown to the system or who is nonresponsive, or both.

498 ~~(34)~~ (37) NONSERVICE CONNECTED DISABILITY. A total  
499 disability or partial disability while the member is employed  
500 by the county that is not a service connected disability.

501 (38) NONVESTED. All members who are not vested.

502 ~~(35)~~ (39) PAID MEMBERSHIP TIME. The time during which a  
503 member made, or shall have made, employee contributions to the  
504 system and other previous retirement systems, provided,



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505 however, that if a member, for any reason, including  
506 termination of employment, withdraws his or her employee  
507 contributions, the period during which the employee  
508 contributions are withdrawn shall be considered unpaid  
509 membership time, unless it ~~is~~ was previously converted to paid  
510 membership time ~~as provided for in Section 45-37-123.53~~. Paid  
511 membership time also shall include a member's absence due to  
512 qualified military service. Years of paid membership time  
513 shall be calculated in accordance with Section 45-37-123.84.

514 ~~(36)~~ (40) PARTIAL DISABILITY. A permanent disability  
515 that is less than a total disability determined in accordance  
516 with Section ~~45-37-123.102(e)~~ 45-37-123.102(a)(3).

517 ~~(37)~~ (41) PENSION BOARD. The administrator of the plan,  
518 ~~as~~ whose powers and duties of administration are more fully  
519 described in Subpart 2.

520 (42) PENSION BENEFIT. A superannuation retirement  
521 benefit, early retirement benefit, or deferred retirement  
522 benefit payable pursuant to Section 45-37-123.100 or a  
523 preretirement or postretirement joint survivorship pension  
524 payable pursuant to Section 45-37-123.103 or Section  
525 45-37-123.101.

526 (43) PERSONNEL BOARD OF JEFFERSON COUNTY. The personnel  
527 system for employees of the county.

528 ~~(38)~~ (44) PLAN or SYSTEM. The General Retirement System  
529 for Employees of Jefferson County, which plan or system may  
530 sue or be sued, and in such name all of its business shall be  
531 transacted.

532 ~~(39)~~ (45) PLAN YEAR. The plan's accounting year of 12



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533 months commencing on January 1 of each year and ending the  
534 following December 31.

535 ~~(40)~~ (46) POSTRETIREMENT JOINT SURVIVORSHIP PENSION. The  
536 benefit described in Section 45-37-123.101.

537 ~~(41)~~ (47) PRERETIREMENT JOINT SURVIVORSHIP PENSION. The  
538 benefit described in Section 45-37-123.103.

539 ~~(42)~~ (48) PREVIOUS RETIREMENT SYSTEMS. The retirement  
540 systems established by Acts 1953, No. 551, 1953 Regular  
541 Session (Acts 1953, p. 766), as amended, the Employees'  
542 Retirement System of Jefferson County, and by Acts 1961, No.  
543 843, 1961 Regular Session (Acts 1961, p. 1250), as amended,  
544 the Employees General Retirement System of Jefferson County.

545 ~~(43)~~ (49) QUALIFIED MILITARY SERVICE. Except as  
546 otherwise subsequently provided under § 414(u), Internal  
547 Revenue Code, the performance of duty, on a voluntary or  
548 involuntary basis, in a uniformed service under competent  
549 authority, and includes active duty, active duty for training,  
550 initial active duty for training, inactive duty training,  
551 full-time national guard duty, a period for which ~~a person~~ an  
552 individual is absent from a position of employment for the  
553 purpose of an examination to determine the fitness of the  
554 ~~person~~ individual to perform any ~~such~~ duty, and a period for  
555 which ~~a person~~ an individual is absent from employment for the  
556 purpose of performing funeral honors duty.

557 ~~(44)~~ (50) REGULAR DEFERRED RETIREMENT BENEFIT. A benefit  
558 payable pursuant to the terms of Section 45-37-123.100(c)(2).

559 ~~(45)~~ (51) REGULATION. The income tax regulations as  
560 ~~promulgated~~ adopted by the Secretary of the Treasury or a



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561 delegate of the Secretary of the Treasury, as amended from  
562 time to time.

563 ~~(46)~~ (52) REQUIRED BEGINNING DATE. As defined in Section  
564 45-37-123.106(f)(6).

565 ~~(47)~~ (53) RETIRED MEMBER. An individual who currently is  
566 receiving a pension ~~benefits~~ benefit from the system pursuant  
567 to Section 45-37-123.100.

568 ~~(48)~~ (54) SERVICE CONNECTED DISABILITY. A total  
569 disability or partial disability, caused by an accident or  
570 injury arising out of and in the course of a member's  
571 employment with the county.

572 ~~(49)~~ (55) SERVICE RECORD. An employee's record of  
573 service upon which the pension board bases all of the member's  
574 benefit calculations, including records of the county.

575 ~~(50)~~ (56) SICK LEAVE RETIREMENT CONVERSION. A program  
576 sponsored by the county or other entities set forth in  
577 subdivision (20) wherein a member is paid for accumulated sick  
578 leave time.

579 ~~(51)~~ (57) SUPERANNUATION RETIREMENT BENEFIT. A benefit  
580 payable pursuant to ~~the terms of subsection (a) of~~ Section  
581 ~~45-37-123.100~~ 45-37-123.100(a).

582 ~~(52)~~ (58) SYSTEM or PLAN. The General Retirement System  
583 for Employees of Jefferson County, which system or plan may  
584 sue or be sued, and in such name all of its business shall be  
585 transacted.

586 ~~(53)~~ (59) SPOUSE. The legal wife or husband of a member  
587 as determined in accordance with federal law.

588 ~~(54)~~ (60) TOTAL DISABILITY. A permanent physical or



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589 mental condition of a member resulting from bodily injury,  
590 disease, or mental disorder which renders such member  
591 incapable of continuing usual and customary employment with  
592 the county. The disability of a member shall be determined by  
593 a licensed medical advisor.

594 ~~(55)~~ (61) TRUSTEE. The pension board or the ~~person~~  
595 individual or entity appointed by the pension board and named  
596 as trustee herein or in any separate trust forming a part of  
597 the plan, and any successors.

598 ~~(56)~~ (62) TRUST FUND. The tax-qualified trust in which  
599 certain plan funds are held, disbursed, transferred, and  
600 invested by the trustee at the pension board's, or its  
601 designated investment manager's, discretion and in accordance  
602 with this part, the Internal Revenue Code, and other  
603 applicable laws and regulations.

604 ~~(57)~~ (63) UNPAID MEMBERSHIP TIME.

605 a. Subject to paragraph d., all of the following:

606 1. Time during which a member was employed by the  
607 county, but the member did not make employee contributions to  
608 the system ~~and/or~~ or other previous retirement systems, or  
609 both.

610 2. Time during which a member withdrew employee  
611 contributions for any reason, including upon a termination of  
612 employment, unless this period of time ~~is~~ was later converted  
613 to paid membership time ~~as provided for in Section~~  
614 ~~45-37-123.53~~.

615 3. Time during which ~~a person~~ an individual held an  
616 elective office or was employed in a full-time job or position



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617 in the service of any municipality, governmental agency, or  
618 subdivision or held an elective office, provided that at the  
619 time the ~~person~~ individual served with ~~such~~ the municipality,  
620 governmental agency, or subdivision, it was subject to the  
621 ~~countywide civil service law~~ Personnel Board of Jefferson  
622 County.

623 b. Unpaid membership time shall not include any of the  
624 following:

625 1. Service with a municipality, governmental agency, or  
626 subdivision if the employee received a pension from such  
627 municipality, governmental agency, or subdivision, on account  
628 of such service or if such service was considered in the  
629 calculation of the pension.

630 2. Any unpaid membership time that has been converted  
631 to paid membership time.

632 3. Any service in a temporary job or position, as  
633 determined by the pension board.

634 c. If such prior service with a municipality,  
635 governmental agency, or subdivision was not an elective office  
636 or in a classified position, such prior service shall not be  
637 treated as unpaid membership time unless such employee  
638 establishes to the satisfaction of the pension board that such  
639 service was a full-time job.

640 d. Only with respect to employees entering the system  
641 on or before August 16, 1996, years of unpaid membership time  
642 are used in computing accrued benefits under the plan, as are  
643 months of unpaid membership time. Months are converted into a  
644 fraction of a year as set forth in Section 45-37-123.84.





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645 Notwithstanding any provision of the plan to the contrary,  
646 unpaid membership time shall not accrue after August 16, 1996,  
647 and shall not apply to members who initially join the system,  
648 or members who rejoin the system after having withdrawn, after  
649 August 16, 1996.

650 ~~(58)~~ (64) VESTED. The portion of a member's benefits  
651 under the plan that ~~generally are~~ have accrued pursuant to  
652 Section 45-37-123.100(c)(2)b. and are therefore  
653 ~~nonforfeitable. Subject to Section 45-37-123.83, relating to~~  
654 ~~failure to claim a refund of employee contributions within the~~  
655 ~~five-year period, a~~ A member's benefit shall become  
656 ~~nonforfeitable, or~~ vested, and nonforfeitable upon any of the  
657 following events:

658 a. The member's accrual of at least 10 years of paid  
659 service;

660 ~~a.~~ b. Partial or full termination of the plan as set  
661 forth in Section 45-37-123.170; ~~and~~ or

662 ~~b.~~ c. Meeting the eligibility conditions for entitlement  
663 to a benefit under Subpart 5.

664 ~~(59)~~ (65) WORKER'S COMPENSATION BENEFITS. Any benefit  
665 paid to a member under any worker's compensation law of the  
666 State of Alabama for any injury or disability suffered by such  
667 member while working for the county on the job or position by  
668 reason of which he or she is a member. Additionally, worker's  
669 compensation benefits are included in compensation for  
670 purposes of determining employee contributions pursuant to  
671 Section 45-37-123.82. Worker's compensation benefits are  
672 included in compensation for purposes of calculating a



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673 ~~retirement~~ pension benefit only if inclusion of such worker's  
674 compensation benefits produces a higher benefit than exclusion  
675 of such worker's compensation benefits."

676 "§45-37-123.20

677 (a) Provisions of records. The county shall provide all  
678 records and documents necessary to determine an employee's  
679 status and eligibility for membership in the plan, upon which  
680 a service record shall be created.

681 (b) Contributions. The county shall contribute an  
682 amount equal to six percent of an employee's compensation from  
683 the county's general assets to the ~~trust fund~~ system, as  
684 provided in Section 45-37-123.80. The county also shall  
685 withhold six percent of an employee's compensation each pay  
686 period as provided in Section 45-37-123.82. ~~The county also~~  
687 ~~shall contribute any amounts received pursuant to Section~~  
688 ~~45-37-233, attributable to pistol permits.~~ Additionally, the  
689 county may pay into the ~~trust fund~~ system from the general  
690 funds of the county, in such installments or times as the  
691 county may elect, an amount or amounts sufficient to assure  
692 that the system is actuarially sound. The system shall remit  
693 contributions to the trust fund as soon as practicable. The  
694 pension board may first pay any sums reasonably necessary to  
695 defray administrative expenses of the plan as determined by  
696 the pension board subject to Section 45-37-123.194. The county  
697 shall also contribute any amounts received pursuant to Section  
698 45-37-233, attributable to pistol permits, to the system,  
699 which shall not be considered plan assets. Any funds  
700 contributed pursuant to Section 45-37-233 shall be remitted to



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701 a system depository account and treated as general assets of  
702 the system as a legal entity separate and distinct from the  
703 plan and its trust."

704 "§45-37-123.21

705 (a) General administration. The role of the pension  
706 board is established by the State of Alabama through  
707 legislative act. The pension board is responsible for the  
708 general administration and proper operation of the plan. The  
709 pension board also is responsible for making effective the  
710 provisions of the act.

711 (b) Qualifications of pension board members. In  
712 addition to the qualifications set forth in subsection (c),  
713 any individual elected or appointed to the pension board shall  
714 complete a background check before the commencement of his or  
715 her term. A prior conviction for a crime of moral turpitude  
716 including, but not limited to, the misappropriation of the  
717 funds or property of another, shall, as determined by the  
718 pension board, disqualify any individual elected or appointed  
719 to the pension board from serving on the pension board.

720 ~~(b)~~ (c) Composition of pension board. The pension board  
721 is comprised of five members, designated respectively as  
722 member number one, member number two, member number three,  
723 member number four, and member number five.

724 (1) MEMBER NUMBER ONE. Member number one shall be  
725 appointed by the governing body of the county and shall serve  
726 as chairman of the pension board. Member number one shall have  
727 a minimum of 10 years' experience in an executive capacity in  
728 insurance, investment management/consultant, or actuarial



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729 work. The initial term of member number one shall be for one  
730 year; and thereafter the term of member number one shall be  
731 for three years.

732 (2) MEMBER NUMBER TWO. Member number two shall be  
733 appointed by the judge of probate, who is an elected official  
734 of the county. Member number two shall have a minimum of 10  
735 years' experience in an executive capacity in investing or  
736 banking. The initial term of member number two shall expire at  
737 the end of two years; and thereafter the term of member number  
738 two shall be for three years.

739 (3) MEMBER NUMBER THREE. Member number three shall be  
740 appointed by the ~~Jefferson County~~ Personnel Board of Jefferson  
741 County. Member number three shall have a minimum of 10 years'  
742 experience as a certified public accountant. The initial term  
743 of member number three shall expire at the end of three years;  
744 and the term of member number three shall be for three years.

745 (4) MEMBERS NUMBER FOUR AND FIVE. Member number four  
746 and member number five shall be elected by the members of the  
747 system. Member number four shall be a retired member of the  
748 system. Member number five shall be a member of the system.  
749 The initial term of member number four shall be for one year;  
750 and thereafter the term of member number four shall be for  
751 three years. Member number five shall be elected for terms of  
752 three years.

753 ~~(e)~~ (d) Procedure for the election of board members four  
754 and five and selection of the election board.

755 (1) Elections of member number four and member number  
756 five shall be conducted by separate paper or electronic ballot



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757 pursuant to procedures established by the pension board.

758 (2) The members of the system shall elect member number  
759 four and member number five. The pension board shall give at  
760 least 15 days' written notice of the time and procedure of the  
761 election by posting the same ~~in at least three prominent~~  
762 ~~places in the county courthouse~~ on the retirement system  
763 website and by delivering ~~three copies of the same~~ an  
764 electronic or paper copy of the written notice to the county  
765 manager who shall inform all ~~persons~~ individuals on the county  
766 payroll of the election; however, the failure to inform all  
767 ~~such~~ employees of the election shall not invalidate the  
768 election.

769 (3) The elections of member number four and member  
770 number five shall be supervised by three members of the system  
771 ~~serving~~ volunteering to serve as the election board. The  
772 members that volunteer to serve as the election board shall be  
773 appointed by the members of the system at the annual meeting  
774 as provided for in Section 45-37-123.22(b)(14). If the members  
775 of the system fail to appoint members to the election board,  
776 or if any member so appointed cannot or will not volunteer to  
777 serve on the election board, the pension board shall appoint  
778 the members of the election board. The pension board may  
779 prescribe additional rules for the elections of member number  
780 four and member number five not inconsistent with the  
781 provisions hereof.

782 ~~(d)~~ (e) Vacancy, how filled. If a vacancy occurs on the  
783 pension board, such vacancy shall be filled for the unexpired  
784 term in the same manner as the office was previously filled.



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785           ~~(e)~~ (f) Resignation or removal of pension board member.  
786    A member of the pension board may resign by delivering a  
787    written resignation to the executive director or be removed by  
788    the unanimous vote of the other members of the pension board  
789    at a duly called meeting of the pension board.

790           ~~(f)~~ (g) Secretary. The secretary of the pension board  
791    shall be the executive director.

792           ~~(g)~~ (h) Salary and expenses. ~~The~~ Subject to Section  
793    45-37-123.194, the members of the pension board shall serve  
794    without pay, but shall be reimbursed for expenses actually  
795    paid or incurred in the discharge of their official duties,  
796    and shall suffer no loss of salary or wages, if employed by  
797    the county, through service on the board."

798           "§45-37-123.22

799           (a) The pension board shall be responsible for the  
800    general administration and proper operation of the plan, and  
801    shall administer the plan for the exclusive benefit of the  
802    members and their designated beneficiaries, subject to the  
803    specific terms of the plan. The pension board shall administer  
804    the plan in accordance with its terms and shall have the power  
805    and discretion to construe the terms of the plan and the act  
806    and to determine all questions arising in connection with the  
807    administration, interpretation, and application of the plan.  
808    Any ~~such~~ determination by the pension board shall be  
809    conclusive and binding upon all ~~persons~~ individuals. The  
810    pension board may establish procedures, correct any defect,  
811    supply any information, or reconcile any inconsistency in such  
812    manner and to such extent as shall be deemed necessary or



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813 advisable to carry out the purpose of the plan; provided,  
814 however, that any procedure, discretionary act,  
815 interpretation, or construction shall be done in a  
816 nondiscriminatory manner based upon uniform principles  
817 consistently applied and shall be consistent with the intent  
818 that the plan shall continue to be deemed a qualified plan  
819 under the terms of § 401(a), Internal Revenue Code, and shall  
820 comply with the terms of the act and all regulations issued  
821 pursuant thereto. The pension board shall have all powers  
822 necessary or appropriate to accomplish the pension board's  
823 duties under the plan.

824 (b) The pension board shall be charged with the duties  
825 of the general administration of the plan as set forth under  
826 the terms of the plan, including, but not limited to, all of  
827 the following:

828 (1) To determine all questions relating to the  
829 eligibility of employees to participate or remain a member  
830 hereunder and to receive benefits under the plan.

831 (2) To compute and certify the amount and the kind of  
832 benefits to which any member shall be entitled hereunder.

833 (3) To maintain all necessary records for the  
834 administration of the plan.

835 (4) To interpret the provisions of the plan and to make  
836 ~~and publish~~ such rules for regulation of the plan and the  
837 administration of any benefit provided as are consistent with  
838 the act and ~~the terms hereof~~ applicable law.

839 (5) To establish rules and regulations for the  
840 administration of plan funds and for the transaction of the



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841 plan's business including, without limitation, the suspension  
842 or reinstatement of benefits to missing participants or  
843 missing beneficiaries.

844 (6) To exercise any investment discretion in a manner  
845 designed to accomplish specific objectives related to the  
846 plan's long-term and short-term liquidity needs.

847 (7) To prepare and provide active members with an  
848 annual estimated benefit statement notifying them of their  
849 estimated benefits.

850 (8) To prepare and provide retired members with a  
851 one-time notification of their benefit payment amounts, and to  
852 provide retired members with periodic notification of ~~cost-of~~  
853 ~~living~~ cost-of-living benefit increases which may be awarded  
854 by the pension board in any form, lump sum, or otherwise.

855 (9) To determine the validity of, and take appropriate  
856 action with respect to, any divorce decree, or other judicial  
857 order presented to the pension board.

858 (10) To assist any member regarding the member's  
859 rights, benefits, or elections available under the plan.

860 (11) To, by written agreement or designation, appoint  
861 at its option an investment manager, qualified under the  
862 Investment Company Act of 1940, as amended, investment  
863 adviser, or other agent to provide direction regarding any or  
864 all of the plan assets. Such appointment shall specifically  
865 identify the plan assets with respect to which the investment  
866 manager or other agent shall have authority to direct the  
867 investment.

868 (12) To establish an investment policy.





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869 (13) To establish a privacy policy for the protection  
870 of a member's personal information, subject to applicable law.

871 (14) To hold an annual meeting of the members at least  
872 once per calendar year and provide at least seven days'  
873 written notice of the meeting to all members on the retirement  
874 system website or at either their place of work, last known  
875 address, or by electronic mail.

876 (15) To determine appropriate rules and regulations to  
877 determine how much service per calendar year is equivalent to  
878 one year of service, in accordance with Section 45-37-123.84.

879 (16) To develop rules and regulations, amend the plan,  
880 subject to the provisions of Section 45-37-123.150, and  
881 provide for increases in benefits, subject to the provisions  
882 of Section 45-37-123.151.

883 (17) Notwithstanding any provisions of the plan to the  
884 contrary, to amend the plan in order to comply with federal  
885 law, and any such amendment shall be given full effect under  
886 Alabama law.

887 (18) To purchase insurance coverage in such forms and  
888 amounts as may be determined by the pension board.

889 (19) To provide employees of the system with health,  
890 dental, vision, and other forms of insurance, paid vacation,  
891 sick leave, tuition reimbursement, and any other benefits as  
892 determined by the pension board.

893 (20) To provide members of the system with voluntary  
894 life, disability, and other forms of insurance, the cost of  
895 which is paid by the member.

896 (21) To conduct meetings and business in person or by



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897 video conference, telephone conference, or electronic  
898 communication.

899 (22) To participate in emergency relief programs of the  
900 United States, the State of Alabama, and their departments,  
901 agencies, and instrumentalities.

902 (23) To recover costs and reasonable attorney's fees in  
903 actions in which the pension board seeks to recover funds of  
904 the ~~retirement~~ system erroneously paid to members,  
905 beneficiaries, and third parties.

906 (24) To authorize the plan to defend and indemnify the  
907 pension board and each of its individual members, employees of  
908 the system, and the system as a legal entity separate and  
909 distinct from the plan from any claim, action, or judgment  
910 connected with or arising from any decision, act, or omission  
911 undertaken within the scope of its or their official capacity  
912 in furtherance of the purposes for which the system is  
913 established to the extent allowed by applicable law and §  
914 401(a), Internal Revenue Code.

915 (25) To interplead funds into a court of competent  
916 jurisdiction when the pension board cannot determine the owner  
917 of said funds or for any other reason allowed under applicable  
918 law.

919 (c) Failure of the pension board to follow any  
920 provisions or procedures in the plan shall not constitute a  
921 waiver of any provision or procedure contained herein."

922 "§45-37-123.23

923 (a) Records. The pension board shall keep minutes of  
924 its meetings. Additionally, the pension board shall keep all



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925 other books of account, records, policies, compensation  
926 records, service records, and other data that may be necessary  
927 for proper administration of the plan and shall be responsible  
928 for supplying all information and reports to the Internal  
929 Revenue Service, members, designated beneficiaries, and others  
930 as may be required by law. Records, as provided in this  
931 subsection, are not public records.

932 (b) Correction of records.

933 (1) The pension board shall correct any error in a  
934 member's service record which the pension board concludes is  
935 necessary to correct or remove an injustice or prevent a  
936 member from receiving less or more than such member is  
937 entitled to receive under the plan. The pension board shall  
938 adopt written rules prescribing the procedure the pension  
939 board shall follow in considering whether an error in an  
940 employee's service record should be corrected. Correction of  
941 service records shall be subject to the following limitations:

942 a. No error in the service record shall be corrected  
943 except by the pension board.

944 b. The pension board shall not correct any error in an  
945 employee's service record until it has accorded, or offered to  
946 accord, the employee a hearing regarding the proposed  
947 correction, which hearing shall not be conducted until after  
948 the employee has received at least two weeks' notice of the  
949 nature of the proposed correction and of the time and place at  
950 which the proposed correction shall be considered.

951 c. No correction of an error shall be made at an  
952 employee's request unless the employee files with the pension



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953 board his or her written request for such correction before  
954 the date that is one year subsequent to the employee's  
955 discovery of the error requested to be corrected; provided,  
956 however, the pension board may excuse an employee's failure to  
957 file such application for correction within one year following  
958 his or her discovery of such error if the pension board finds  
959 that excusing such failure would be most equitable.

960 (2) If the pension board determines that any amount has  
961 been erroneously deducted from the compensation of an employee  
962 and paid ~~into~~ to the ~~trust fund~~ system as an employee  
963 contribution, or that any amount has been otherwise paid ~~into~~  
964 to the ~~trust fund~~ system erroneously on behalf of any  
965 employee, such amount shall be refunded to the employee, and  
966 any amount which may have been paid erroneously to match such  
967 erroneous contribution shall be refunded. The pension board is  
968 authorized to determine whether interest shall be payable on  
969 any amounts returned and to determine the amount of interest  
970 to be paid, if any; provided, however, that no interest shall  
971 be paid to any employee responsible for the error resulting in  
972 the erroneous payment.

973 (c) Audit. The pension board shall cause an audit to be  
974 made of its affairs by a certified public accountant at least  
975 once each calendar year."

976 "§45-37-123.24

977 The pension board may allocate responsibilities among  
978 the members of the pension board ~~and/or~~ or may delegate  
979 responsibilities to third parties, or both. The pension board  
980 may employ, appoint, or contract with additional employees,



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981 administrators, managers, counsel, specialists, advisers,  
982 agents, including nonfiduciary agents, and other ~~persons~~  
983 individuals as the pension board or the trustee deems  
984 necessary or desirable in connection with the administration  
985 of the plan, including, but not limited to, agents and  
986 advisers to assist with the administration and management of  
987 the plan, and thereby to provide, among such other duties as  
988 the pension board may appoint, assistance with maintaining  
989 plan records and the providing of investment information to  
990 the plan's investment fiduciaries, and none of ~~such persons~~  
991 those individuals shall be subject to the ~~civil service system~~  
992 Personnel Board of Jefferson County."

993           "§45-37-123.25

994           The county, the ~~Jefferson County~~ Personnel Board of  
995 Jefferson County, or the county's agent, as applicable, shall  
996 supply full and timely information, including, but not limited  
997 to, all payroll, service records, and personal history of  
998 members, to the pension board as the pension board may require  
999 in order to perform its duties hereunder. The pension board  
1000 may rely upon such information as accurate and shall have no  
1001 duty or responsibility to verify such information."

1002           "§45-37-123.26

1003           ~~All~~ Subject to Section 45-37-123.194, all payment of  
1004 benefits, expenses of administration, and any other expenses  
1005 arising hereunder, may be paid by the pension board out of the  
1006 trust fund, unless otherwise paid by the county or from the  
1007 general assets of the system as a legal entity separate and  
1008 distinct from the plan and its trust. Such expenses shall



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1009 include any expenses incident to the functioning of the  
1010 pension board, or any ~~person or persons~~ individual retained or  
1011 appointed by any fiduciary incident to the exercise of their  
1012 duties under the plan, including, but not limited to, fees of  
1013 accountants, counsel, investment managers, and other  
1014 specialists and their agents, and other costs of administering  
1015 the plan. Until paid, the expenses shall constitute a  
1016 liability of the system."

1017 "§45-37-123.27

1018 Three members of the pension board shall constitute a  
1019 quorum for the transaction of all business. Except where there  
1020 has been an allocation and delegation of administrative  
1021 authority pursuant to Section 45-37-123.24, three affirmative  
1022 votes shall be necessary for a decision by the pension board."

1023 "§45-37-123.28

1024 (a) Claims for benefits under the plan shall be filed  
1025 in writing with the executive director on forms which may  
1026 include, but are not limited to, electronic forms provided by  
1027 the pension board and filed in accordance with procedures  
1028 established by the pension board or the executive director, or  
1029 both. The procedure and documents to be produced by a member  
1030 or designated beneficiary may differ depending on the type of  
1031 benefit claim being made.

1032 (b) The pension board may allow a properly designated  
1033 power of attorney to act on behalf of a member or designated  
1034 beneficiary so long as the act is authorized under the terms  
1035 of the power of attorney documentation."

1036 "§45-37-123.29



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1037 Any employee, former employee, or designated  
1038 beneficiary of either, who has been denied a benefit by a  
1039 decision of the pension board pursuant to a claim made under  
1040 Section 45-37-123.28 shall be entitled to request the pension  
1041 board to give further consideration to a claim by filing with  
1042 the pension board a written request for a hearing. Such  
1043 request shall be filed with the pension board no later than 60  
1044 days after receipt of the written notification of denial. The  
1045 pension board shall then conduct a hearing as soon as  
1046 administratively feasible. The hearing shall typically be held  
1047 at the pension board's regular meeting. A final decision as to  
1048 the claim shall be made by the pension board as soon as  
1049 administratively feasible after receipt of the appeal and the  
1050 claimant shall be notified in writing of the decision. In the  
1051 event of a denial of a disability-~~retirement~~ benefit claim, a  
1052 new disability-~~retirement~~ benefit claim may not be made for at  
1053 least six months from the date of the last appeal denial,  
1054 unless otherwise determined in the discretion of the pension  
1055 board or the executive director."

1056 "§45-37-123.50

1057 Any eligible employee may become a member of the system  
1058 as described below. Notwithstanding the following, any-~~person~~  
1059 individual who was a member of the system prior to the  
1060 effective date of the amendment and restatement of the plan  
1061 shall continue to be a member of the system.

1062 (1) MANDATORY MEMBERSHIP.

1063 ~~a. Eligible Employees Subject to the Civil Service~~  
1064 ~~System.~~ Except as otherwise provided in subdivision (2), every



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1065 eligible employee who occupies a full-time position subject to  
1066 the ~~civil service system applicable to~~ Personnel Board of  
1067 Jefferson County shall become a member of the system and shall  
1068 make employee contributions to the system in accordance with  
1069 Section 45-37-123.82. If an employee subsequently occupies a  
1070 position not subject to the Personnel Board of Jefferson  
1071 County, the employee shall remain a mandatory and contributing  
1072 member of the system, except as otherwise provided herein.

1073 ~~b. Hospital Employees. Every eligible hospital~~  
1074 ~~employee, as defined in subdivision (21) of Section~~  
1075 ~~45-37-123.01, shall become a member of the system and shall~~  
1076 ~~make employee contributions to the system in accordance with~~  
1077 ~~Section 45-37-123.82 if his or her relation to the hospital~~  
1078 ~~corporation is such that if he or she had the same relation to~~  
1079 ~~Jefferson County as he or she has to the hospital corporation,~~  
1080 ~~his or her membership in the system would be mandatory.~~

1081 (2) OPTIONAL MEMBERSHIP. The following eligible  
1082 employees may exercise the option to become a member of the  
1083 system by filing with the ~~secretary of the pension board~~  
1084 executive director an executed declaration stating that he or  
1085 she elects to become a member of the system, subject to all of  
1086 the rights and liabilities of members of the system. The  
1087 declaration shall be in such form and time as the pension  
1088 board may prescribe. Once the declaration is accepted by the  
1089 pension board or a representative of the pension board, such  
1090 eligible employee then shall become a member of the system and  
1091 shall begin to make employee contributions to the system in  
1092 accordance with Section 45-37-123.82. The election to become





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1093 or not become a member, once exercised, shall be irrevocable.

1094 a. Eligible Employees Not Subject to the ~~Civil Service~~  
1095 ~~System~~ Personnel Board of Jefferson County. Any eligible  
1096 employee who occupies a ~~full-~~ full-time or part-time position  
1097 not subject to the ~~civil service system applicable to~~  
1098 Personnel Board of Jefferson County shall not become a member  
1099 of the system unless he or she exercises the written option to  
1100 become a member.

1101 ~~b. Hospital Employees. Any eligible hospital employee,~~  
1102 ~~as defined in subdivision (21) of Section 45-37-123.01, shall~~  
1103 ~~have the option of becoming a member of the system if such~~  
1104 ~~eligible hospital employee's relation to the hospital~~  
1105 ~~corporation is such that if he or she had the same relation to~~  
1106 ~~Jefferson County as he or she has to the hospital corporation,~~  
1107 ~~he or she would have the option of becoming a member of the~~  
1108 ~~system.~~

1109 e.b. Eligible County Office Employees, ~~Eligible Circuit~~  
1110 ~~Solicitors, Eligible Deputy Solicitors,~~ and Eligible Part-Time  
1111 Employees. Notwithstanding the mandatory membership provisions  
1112 in subdivision (1), any eligible county office employee, ~~any~~  
1113 ~~eligible circuit solicitor, any eligible deputy solicitor,~~ as  
1114 ~~each is~~ defined in Section 45-37-123.01, and any part-time  
1115 employee who occupies a position subject to the ~~civil service~~  
1116 ~~system applicable to~~ Personnel Board of Jefferson County shall  
1117 not become a member of the system unless he or she exercises  
1118 the written option to become a member."

1119 "§45-37-123.54

1120 If a member of the system severs employment with the



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1121 county or his or her term in an elected or appointed job or  
1122 position terminates, and ~~such~~ the member thereafter returns to  
1123 the service of the county, he or she shall become a member of  
1124 the system to the extent he or she meets the definition of an  
1125 eligible employee, subject to the following rules:

1126 (1) RETIRED MEMBER RECEIVING A PENSION BENEFIT. If a  
1127 member receiving his or her pension benefit is reemployed by  
1128 the county two or more years after severing employment, the  
1129 pension benefit of the member shall not be reduced. If a  
1130 member is receiving his or her pension benefit and is  
1131 reemployed by the county less than two years after severing  
1132 employment, any amount otherwise payable by the system to the  
1133 member on account of the member's retirement shall be reduced  
1134 by the amount, if any, paid or payable to the member by the  
1135 county on account of or by reason of the reemployment of the  
1136 member. At the earlier of the time the member thereafter  
1137 severs employment with the county or after two or more years  
1138 ~~of reemployment by the county~~ after the date on which the  
1139 member retired, ~~such~~ the member's pension benefit shall return  
1140 to the amount it was prior to the member's reemployment.  
1141 However, notwithstanding subdivisions (3) and (4), such a  
1142 member covered by this subdivision shall not make any  
1143 additional employee contributions or accrue any additional  
1144 pension benefit during his or her period of reemployment.

1145 (2) MEMBER ELECTED A DEFERRED RETIREMENT. If a vested  
1146 member who severed employment with the county and elected a  
1147 deferred retirement benefit is reemployed by the county before  
1148 age 60, his or her election for a deferred retirement benefit



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1149 shall be rescinded, and he or she shall resume making employee  
1150 contributions and begin to accrue benefits again upon the date  
1151 of reemployment if the member's position is subject to  
1152 mandatory membership pursuant to Section 45-37-123.50(1). Such  
1153 member's benefit, if any, shall be calculated by aggregating  
1154 the member's credited service during all periods of ~~employment~~  
1155 membership in the system. Alternatively, if the member's  
1156 position is subject to optional membership pursuant to Section  
1157 45-37-123.50(2), the member shall resume employee  
1158 contributions and begin to accrue benefits again only if he or  
1159 she has exercised the option to become a member in accordance  
1160 with Section 45-37-123.50(2).

1161 (3) DISABLED MEMBER RECEIVING A DISABILITY BENEFIT. If  
1162 a disabled member receiving a disability benefit is reemployed  
1163 by the county, his or her disability benefit shall terminate  
1164 effective upon the date of reemployment.

1165 ~~(3)~~ (4) MEMBER DOES NOT RECEIVE A REFUND AND IS  
1166 REEMPLOYED WITHIN FIVE YEARS. Except as set forth in  
1167 subdivision (1), if a member, who severed employment with the  
1168 county but did not receive a refund of his or her employee  
1169 contributions to the system as provided in Section  
1170 45-37-123.104, is reemployed by the county within five years  
1171 of such severance from employment, he or she shall resume  
1172 making employee contributions and begin to accrue benefits  
1173 again upon the date of reemployment. The member's benefit  
1174 shall be calculated by aggregating the member's credited  
1175 service during all periods of employment.

1176 ~~(4)~~ (5) MEMBER RECEIVED A REFUND ~~OR FORFEITED PENSION~~



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1177 ~~BENEFIT~~. Except as set forth in subdivision (1), if a member  
1178 who severed employment with the county and received a refund  
1179 of his or her employee contributions to the system as provided  
1180 in Section 45-37-123.104, ~~or does not receive a refund within~~  
1181 ~~five years after severing from employment~~, is reemployed by  
1182 the county, he or she shall rejoin the system in accordance  
1183 with Sections 45-37-123.50 and 45-37-123.82 and begin to  
1184 accrue benefits again upon the date of reemployment. In  
1185 calculating the member's benefit, only credited service  
1186 rendered after the member is reemployed shall be included."

1187       "§45-37-123.80

1188       (a) Employer contributions. Each payroll period, an  
1189 amount equal to the total of all members' employee  
1190 contributions that is deducted from the members' compensation  
1191 pursuant to Section 45-37-123.82 shall be contributed by the  
1192 county and shall be paid ~~into~~ to the ~~trust fund~~ system. The  
1193 system shall remit the contributions to the trust fund as soon  
1194 as practicable, however the pension board may first pay any  
1195 sums reasonably necessary to defray administrative expenses of  
1196 the plan as determined in the sole discretion of the pension  
1197 board subject to Section 45-37-123.194.

1198       (b) Employer contributions upon reinstatement from  
1199 qualified military service. If any member leaves the service  
1200 of the county for the purposes of performing qualified  
1201 military service and shall have been reinstated to the service  
1202 of the county within 90 days after such member's separation  
1203 from such qualified military service, then the county shall  
1204 promptly pay ~~into~~ to the ~~trust fund~~ system an amount equal to



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1205 twice the employee contribution which the employee would have  
1206 made if he or she had not been absent on such leave, and if  
1207 his or her compensation had continued to be the same as he or  
1208 she was earning at the time of the commencement of the leave;  
1209 provided, however, that no part of such payment by the county  
1210 shall be refundable to the employee pursuant to Section  
1211 45-37-123.104."

1212 "§45-37-123.82

1213 (a) Employee contributions generally. As a condition of  
1214 employment and of accruing benefits under the plan, each  
1215 member shall contribute six percent of such member's  
1216 compensation to the plan. The employee contributions shall be  
1217 after tax, or if approved by the pension board such employee  
1218 contributions shall be pre-tax and treated as "picked-up" and  
1219 contributed by the county to the plan pursuant to ~~Section~~ §  
1220 414(h)(2) of the Internal Revenue Code. The county shall  
1221 process such employee contributions each payroll period and  
1222 the aggregate amount shall be deposited in the ~~trust fund~~  
1223 system. Employee contributions shall begin on the member's  
1224 first paycheck after a member becomes eligible for membership  
1225 in the system as provided for in Section 45-37-123.50. In the  
1226 event that the county fails to withhold any employee  
1227 contributions, the county may withhold such amounts, whether  
1228 treated by the county as after-tax contributions or treated as  
1229 "picked-up" contributions, from future paychecks as are  
1230 necessary to restore the amounts not withheld.

1231 (b) Withdrawal or refunds of employee contributions.  
1232 Employee contributions may be withdrawn or refunded only as



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1233 provided in Section 45-37-123.104.

1234 (c) Cessation of employee contributions. A member may  
1235 terminate employee contributions ~~when the member's service~~  
1236 ~~entitles him or her to receive the maximum benefit available~~  
1237 after 30 years of paid service, as further provided in Section  
1238 45-37-123.104 (3)."

1239 "§45-37-123.83

1240 The pension board and county are authorized to  
1241 contribute to the system or trust fund any monies received in  
1242 the form of donations, gifts, appropriations, bequests, or  
1243 otherwise, or derived therefrom. ~~Additionally, any member or~~  
1244 ~~beneficiary who fails to make timely application for the~~  
1245 ~~amount of his or her employee contributions pursuant to~~  
1246 ~~Section 45-37-123.104 shall be deemed to have forfeited and~~  
1247 ~~donated employee contributions to the trust fund. In no event~~  
1248 ~~shall any forfeitures under the plan result in an increase in~~  
1249 ~~the benefit to be paid to any member. The executive director~~  
1250 ~~shall provide one certified letter to the member within 60~~  
1251 ~~days following the member's termination of employment advising~~  
1252 ~~the member of the foregoing forfeiture provisions. See also~~  
1253 ~~Section 45-37-123.194 for additional forfeiture provisions."~~

1254 "§45-37-123.84

1255 Except as otherwise specifically stated herein, the  
1256 rules below shall apply in determining length of service for  
1257 all purposes under the plan.

1258 (1) In no case may more than one year of service be  
1259 credited for service in one calendar year.

1260 (2) A member shall work over one-half of a month,



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1261 including all calendar days or the hourly equivalent thereof,  
1262 in order to earn one month of service.

1263 (3) Except as otherwise specifically stated herein or  
1264 required by federal law, a member shall not be allowed service  
1265 credit for any period of more than one-half of a month during  
1266 which such member is absent without pay.

1267 (4) A member shall receive service credit for any and  
1268 all paid leaves of absence, including a paid Family and  
1269 Medical Leave Act leave, regardless of the length of the leave  
1270 and regardless of the performance of any services. For  
1271 ~~member's~~ members terminating employment between August 1,  
1272 1993, and January 31, 2010, up to three months of service  
1273 credit was granted to members on unpaid Family and Medical  
1274 Leave Act leaves.

1275 (5) Years of paid membership time are used in computing  
1276 benefits under the plan, as are months of paid membership  
1277 time. Months shall be converted into a fraction of a year as  
1278 follows:

1279	1 month	.0833
1280	2 months	.1667
1281	3 months	.2500
1282	4 months	.3333
1283	5 months	.4167
1284	6 months	.5000
1285	7 months	.5833



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1286 8 months .6667

1287 9 months .7500

1288 10 months .8333

1289 11 months .9167

1290 12 months 1.0000

1291 (6) The pension board may disregard a fractional part  
1292 of a year in computing paid membership time or unpaid  
1293 membership time that is less than one-twelfth of a year.

1294 (7) Notwithstanding any provision of the plan to the  
1295 contrary, effective December 12, 1994, contributions,  
1296 benefits, and service shall be provided in accordance with §  
1297 414(u), Internal Revenue Code, relating to military leave.

1298 (8) Service before and after reemployment by the county  
1299 shall also be calculated in accordance with Section  
1300 45-37-123.54."

1301 "§45-37-123.100

1302 (a) Superannuation retirement benefit.

1303 (1) ELIGIBILITY. A member shall be eligible for a  
1304 superannuation retirement benefit if the member is not  
1305 receiving a disability benefit and:

1306 a. The member has 30 or more years of paid membership  
1307 time, regardless of age;

1308 b. The member has 10 or more years of paid membership  
1309 time and has attained the age of 60; or

1310 c. The member has 30 years of service, 20 years of  
1311 which are paid membership time, and has attained the age of





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1312 55.

1313 (2) CALCULATION OF BENEFIT. If a member meets the  
1314 foregoing eligibility criteria, then the member shall be  
1315 eligible to retire and receive a monthly benefit for the  
1316 remainder of his or her life to be determined by the following  
1317 formula:

1318 a. Two and one-half percent multiplied by the basic  
1319 average salary multiplied by the number of years of paid  
1320 membership time; plus

1321 b. Five-eighths of one percent multiplied by the basic  
1322 average salary multiplied by the number of years of unpaid  
1323 membership time, if applicable.

1324 (3) SEVENTY-FIVE PERCENT LIMITATION. Notwithstanding  
1325 the foregoing, no member shall receive any ~~retirement~~ pension  
1326 benefit in excess of 75 percent of his or her basic average  
1327 salary. This 75 percent limitation shall only be applied at  
1328 the time that the beginning ~~retirement~~ pension benefit is  
1329 determined and shall not limit increases granted to retired  
1330 members subsequent to their retirement. Additionally, this 75  
1331 percent limitation shall be applied before applying any  
1332 actuarial adjustments to reflect an election of a joint  
1333 survivorship pension.

1334 (4) SECTION 401(a)(17), INTERNAL REVENUE CODE,  
1335 LIMITATION. Notwithstanding the foregoing provisions of this  
1336 subsection, after applying the § 401(a)(17), Internal Revenue  
1337 Code, compensation limit set forth in ~~subdivision (11) of~~  
1338 Section ~~45-37-123.01~~ 45-37-123.01(10), the pension board, with  
1339 the assistance of an actuary, shall determine the adjustments



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1340 to any or all of the components or factors of the benefit  
1341 formula, other than paid membership time, unpaid membership  
1342 time, and/or the basic average salary as limited by the  
1343 compensation limit that would be necessary to yield the  
1344 maximum benefit specified under this part, without regard to §  
1345 401(a)(17), Internal Revenue Code; the pension board shall  
1346 then use such adjusted benefit formula to determine the  
1347 maximum benefit due from the plan, subject, however, to  
1348 Subpart 6~~7~~ and Internal Revenue Code~~7~~ Section 415 limitations.

1349 (5) ELIGIBILITY FOR POSTRETIREMENT JOINT SURVIVORSHIP  
1350 PENSION. A member that is entitled to a superannuation  
1351 retirement benefit shall be entitled to instead elect a  
1352 postretirement joint survivorship pension, as provided for  
1353 under Section 45-37-123.101.

1354 (6) DEATH. If a member dies while receiving payment of  
1355 a superannuation retirement benefit, the return of any  
1356 remaining portion of his or her employee contributions shall  
1357 be governed by Section ~~45-37-123.104(5)d~~ 45-37-123.104(4)d. If  
1358 the member has received payments in an amount at least equal  
1359 to the amount of employee contributions he or she made to the  
1360 plan at the time of death, then no further payments shall be  
1361 made upon the member's death.

1362 (b) Early retirement benefits.

1363 (1) REGULAR EARLY RETIREMENT. A member may elect, but  
1364 is not required, to retire prior to age 60 if the member has  
1365 completed 30 or more years of service, 10 of which, but not  
1366 the total 30, are paid membership time. In the event that a  
1367 member makes such an election, such member shall be entitled



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1368 to receive an early retirement benefit equal to the member's  
1369 benefit that would be payable pursuant to subsection (a), but  
1370 with an actuarial equivalent reduction for each year less than  
1371 60 years of age, as follows:

1372	Age of Member on	Reduced Retirement Benefit on Account of
1373	Last Birthday	Retirement before Age 60 Expressed as a
1374	Preceding	Percentage of the Superannuation
1375	Retirement	Retirement Benefit under subsection (a)

1376	59	93%
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1377	58	87%
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1378	57	82%
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1379	56	77%
------	----	-----

1380	55	72%
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1381	54	68%
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1382	53	64%
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1383	52	60%
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1384	51	57%
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1385	50	54%
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1386	49	51%
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1387	48	48%
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1388 (2) TWENTY-FIVE YEAR EARLY RETIREMENT BENEFIT. On and  
1389 after April 24, 2003, a member with at least 25 years of paid  
1390 membership time, but less than 30 years of paid membership  
1391 time, who is not eligible for a superannuation retirement



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1392 benefit may elect to retire early, but is not required to do  
1393 so. In the event that a member makes such an election, such  
1394 member shall be entitled to receive a 25-year early retirement  
1395 benefit equal to the member's benefit that would be payable  
1396 under superannuation retirement benefit pursuant to subsection  
1397 (a), but with an actuarial equivalent reduction of seven  
1398 percent for each whole year less than 30 years. For purposes  
1399 of the seven percent reduction, months are not counted.

1400 (3) ELIGIBILITY FOR POSTRETIREMENT JOINT SURVIVORSHIP  
1401 PENSION. A member that is entitled to an early retirement  
1402 benefit shall be entitled to instead elect a postretirement  
1403 joint survivorship pension, as provided for under Section  
1404 45-37-123.101.

1405 (4) DEATH. If a member dies while receiving payment of  
1406 an early retirement benefit, the return of any remaining  
1407 portion of his or her employee contributions shall be governed  
1408 by Section ~~45-37-123.104(5)d~~ 45-37-123.104(4)d. If the member  
1409 has received payments in an amount at least equal to the  
1410 amount of employee contributions he or she made to the plan at  
1411 the time of death, then no further payments shall be made upon  
1412 the member's death.

1413 (c) Deferred retirement benefits.

1414 (1) GENERAL RULES FOR DEFERRED RETIREMENT BENEFITS.

1415 a. Ineligibility for Deferred Retirement Benefit if  
1416 Eligible for Superannuation Retirement Benefit. If a member is  
1417 eligible for a superannuation retirement benefit, then he or  
1418 she is not eligible for a deferred retirement benefit.

1419 b. Withdrawal of Employee Contributions. A member who



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1420 has elected a deferred retirement benefit may at any time  
1421 before payment of such benefit commences withdraw in full his  
1422 or her employee contributions, without interest. However, no  
1423 deferred retirement benefit shall be paid to a member who  
1424 withdraws such employee contributions.

1425 c. Eligibility for Postretirement Joint Survivorship  
1426 Pension. A member that is entitled to a deferred retirement  
1427 benefit shall be entitled to instead elect a postretirement  
1428 joint survivorship pension provided for under Section  
1429 45-37-123.101.

1430 d. Death. If a member dies before or after payment of  
1431 his or her deferred retirement benefit commences, the return  
1432 of his or her employee contributions to the plan shall be  
1433 governed by Section ~~45-37-123.104(5)b. or d.~~  
1434 45-37-123.104(4)b. or d., respectively.

1435 (2) REGULAR DEFERRED RETIREMENT BENEFIT.

1436 a. Eligibility. Subject to the general eligibility  
1437 requirements stated in subdivision (1), a member may elect a  
1438 regular deferred retirement benefit if he or she has at least  
1439 10 years of paid membership time.

1440 b. Calculation of Benefit/Vesting. The regular deferred  
1441 retirement benefit shall be calculated by multiplying the  
1442 superannuation retirement benefit that the member would have  
1443 been entitled to had he or she been 60 years of age when he or  
1444 she terminated employment, times a percentage, which  
1445 percentage shall be determined based upon the member's paid  
1446 membership time, and shall vest and become nonforfeitable as  
1447 follows:



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- 1448 1. Ten years of paid membership time: 50 percent.  
1449 2. Eleven years of paid membership time: 60 percent.  
1450 3. Twelve years of paid membership time: 70 percent.  
1451 4. Thirteen years of paid membership time: 80 percent.  
1452 5. Fourteen years of paid membership time: 90 percent.  
1453 6. Fifteen or more years of paid membership time: 100  
1454 percent.

1455 c. Commencement of Payment. ~~Payment~~ Subject to the  
1456 requirements provided in subsection (e), payment of a member's  
1457 regular deferred retirement benefit shall commence upon the  
1458 date that the member reaches the age of 60 and shall continue  
1459 for the life of the member, regardless of whether the member  
1460 is employed with another employer at the time payment is to  
1461 commence.

### 1462 (3) INVOLUNTARY DEFERRED RETIREMENT BENEFIT.

1463 a. 20/55 Provisions. Subject to the general eligibility  
1464 requirements stated in subdivision (1), a member who is not  
1465 entitled to voluntarily retire pursuant to subsection (a),  
1466 superannuation retirement benefit, or subdivision (1) of  
1467 subsection (b), regular early retirement benefit, but who is  
1468 involuntarily retired after accumulating 20 years of service  
1469 with the county, at least 10 of which is paid membership time,  
1470 shall be entitled to receive a monthly benefit computed in  
1471 accordance with the formula set forth in subsection (a),  
1472 superannuation retirement benefit, the payment of which shall  
1473 commence upon his or her retirement if he or she has attained  
1474 the age of 55; if the member has not attained the age of 55,  
1475 payment shall be delayed until the member's attainment of age



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1476 55.

1477           b. 18/60 Provisions. Subject to the general eligibility  
1478 requirements stated in subdivision (1) and to this paragraph,  
1479 a member who is not entitled to voluntarily retire pursuant to  
1480 subsection (a), superannuation retirement benefit, or  
1481 subdivision (1) of subsection (b), regular early retirement  
1482 benefit, but who is involuntarily retired after accumulating  
1483 18 years of service with the county, at least 10 of which is  
1484 paid membership time, shall be entitled to receive a monthly  
1485 benefit computed in accordance with the formula set forth in  
1486 subsection (a), superannuation retirement benefit, the payment  
1487 of which shall commence as set forth below.

1488           1. Member contributions. In order to receive a benefit  
1489 under paragraph b., a member shall contribute to the plan from  
1490 the date of the member's involuntary retirement to the date  
1491 that the benefit commences, by the last day of each calendar  
1492 month: (i) the amount of employee contributions that he or she  
1493 would have made if he or she had continued to be employed by  
1494 the county at the same salary as he or she was receiving at  
1495 the time of his or her termination of employment, plus (ii)  
1496 the amount which the county would have contributed to the plan  
1497 on the member's behalf if he or she had continued to be  
1498 employed by the county at the same salary as he or she was  
1499 receiving at the time of his or her termination of employment.

1500           2. Commencement of payment. ~~Payment~~ Subject to the  
1501 requirements provided in subsection (e), payment of a member's  
1502 involuntary deferred retirement benefit under paragraph b.  
1503 shall commence upon the earlier of: (i) the date on which the



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1504 member attains the age of 60; or (ii) the date on which the  
1505 member would have completed 30 years of service with the  
1506 county, if he or she had continued employment with the county,  
1507 regardless of whether the member is employed with another  
1508 employer at the time payment is to commence; provided however,  
1509 that if at the time payment of the deferred retirement benefit  
1510 commences, he or she has not attained the age of 60, the  
1511 amount of his or her monthly benefit computed in accordance  
1512 with subsection (a), superannuation retirement benefit, shall  
1513 be reduced in the same manner as the early retirement benefit  
1514 is reduced under subdivision (1) of subsection (b).

1515 (d) Offset for payment of hospital, surgical, and  
1516 medical ~~benefits~~ premiums. To the extent that the county, with  
1517 sufficient advance written notice, so directs the system, the  
1518 system shall offset the monthly benefit amount payable to a  
1519 retired member by an amount, determined by the county, needed  
1520 to pay for the member's premiums for certain hospital,  
1521 surgical, ~~and/or~~ or medical benefits, or any combination of  
1522 them, sponsored by the county. The system shall pay such  
1523 withheld amounts to the county on a monthly basis. In the  
1524 event that the county makes an error in its written direction  
1525 to the system, the system shall not be required to correct  
1526 such error by adjusting its withholdings; rather, such error  
1527 shall be corrected between the county and the member. ~~At any~~  
1528 ~~time a written opinion from a competent actuary selected by~~  
1529 ~~the commission is made indicating that the funds and assets of~~  
1530 ~~the system are not actuarially sound, then the benefits of~~  
1531 ~~this subsection shall cease to be in effect until such time as~~





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1532 ~~an actuary appointed by the commission gives a written opinion~~  
1533 ~~that the system is financially sound. Any such actuarial~~  
1534 ~~services shall be paid for by the system.~~

1535 (e) Member action required. A member shall complete all  
1536 forms required by the pension board before payment of any  
1537 benefit provided in this chapter may commence."

1538 "§45-37-123.101

1539 (a) Election of postretirement joint survivorship  
1540 pension. In lieu of a benefit under subsections (a) to (c),  
1541 inclusive, of Section 45-37-123.100, superannuation retirement  
1542 benefit, early retirement benefit, or deferred retirement  
1543 benefit, respectively, a member may elect to receive a  
1544 postretirement joint survivorship pension.

1545 (1) PERCENTAGE ELECTION. In the event that a member  
1546 desires to elect pursuant to this subsection to receive a  
1547 postretirement joint survivorship pension, he or she shall  
1548 elect one of the following percentages, which election shall  
1549 be the actuarial equivalent of the monthly ~~retirement~~ pension  
1550 benefit provided in subsections (a) to (c), inclusive, of  
1551 Section 45-37-123.100, as applicable:

1552 a. Reduced monthly benefit payable over the life of the  
1553 member and the life of the member's designated beneficiary, 50  
1554 percent postretirement joint survivorship pension.

1555 b. Reduced monthly benefit payable over the life of the  
1556 member and the life of the member's designated beneficiary, 66  
1557 and two-thirds percent postretirement joint survivorship  
1558 pension.

1559 c. Reduced monthly benefit payable over the life of the



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1560 member and the life of the member's designated beneficiary, 75  
1561 percent postretirement joint survivorship pension.

1562 d. Reduced monthly benefit payable over the life of the  
1563 member and the life of the member's designated beneficiary,  
1564 100 percent postretirement joint survivorship pension.

1565 (2) FORM OF POSTRETIREMENT JOINT SURVIVORSHIP PENSION.

1566 In addition to electing a percentage under subdivision (1), a  
1567 member who desires to elect to receive a postretirement joint  
1568 survivorship pension shall elect one of the following two  
1569 forms:

1570 a. Pop-up Form. Under the pop-up form, if the member's  
1571 designated beneficiary predeceases the retired member, then in  
1572 the month following the designated beneficiary's death, the  
1573 member's monthly pension benefit shall pop-up to the amount  
1574 that would have been payable to the member under subsections  
1575 (a) to (c), inclusive, of Section 45-37-123.100, as  
1576 applicable, as if the member had never elected a  
1577 postretirement joint survivorship pension; the cost of a  
1578 pop-up form is more than the cost of the regular form  
1579 described in paragraph b.

1580 b. Regular Form. Under the regular form, if the  
1581 member's designated beneficiary predeceases the retired  
1582 member, then the member shall continue to receive the same  
1583 amount that he or she was receiving prior to the designated  
1584 beneficiary's death. The amount of the benefit payment shall  
1585 not change.

1586 (b) Timing of election. Except as provided in the  
1587 immediately following sentence, in the event that a member



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1588 desires to elect a postretirement joint survivorship pension,  
1589 he or she shall do so in writing, on a form provided by the  
1590 pension board, no later than the member's last day of  
1591 employment. In the event that a member previously elected a  
1592 deferred retirement benefit and desires to elect a  
1593 postretirement joint survivorship pension, he or she shall do  
1594 so in writing, on a form provided by the pension board, no  
1595 later than the day before the member's sixtieth birthday.

1596 (c) Timing of payments. Payment to the member commences  
1597 on the day after the member terminates employment and shall  
1598 continue to be paid each month thereafter until the member's  
1599 death. If the member's designated beneficiary survives after  
1600 the death of the member, the postretirement joint survivorship  
1601 pension payments shall be made monthly to the designated  
1602 beneficiary, beginning on the first day of the month following  
1603 the member's death, ~~assuming~~ provided that the pension board  
1604 is notified of the death in a timely manner and the designated  
1605 beneficiary has completed all forms required by the pension  
1606 board. Payments shall terminate with the first monthly payment  
1607 preceding the second to die of the member and the designated  
1608 beneficiary. In the event that a refund is to be paid pursuant  
1609 to Section 45-37-123.104(4)c., such payment shall be made as  
1610 soon as administratively feasible following the  
1611 member's/designated beneficiary's deaths.

1612 (d) Cost of postretirement joint survivorship pension.  
1613 To the extent that a member elects payment of a postretirement  
1614 joint survivorship pension for his or her designated  
1615 beneficiary, the benefit otherwise payable to the member shall



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1616 be actuarially reduced to reflect the election of a  
1617 postretirement joint survivorship pension.

1618 (e) Changes in election. At any time before termination  
1619 of employment, the member may cancel his or her election to  
1620 have payment in such form by completing a form provided by the  
1621 pension board. Except as otherwise stated herein, the member's  
1622 election of a postretirement joint survivorship pension shall  
1623 be irrevocable once the member terminates employment.

1624 (1) DEATH. a. Death of Member Prior to Actual  
1625 Retirement. In the event that a member dies prior to his or  
1626 her actual retirement, any postretirement joint survivorship  
1627 pension election he or she made shall be deemed void.

1628 b. Death of Designated Beneficiary Before Payments  
1629 Commence. In the event that a member elects a postretirement  
1630 joint survivorship pension and his or her designated  
1631 beneficiary dies before payments commence, then upon the  
1632 designated beneficiary's death, the member's election of the  
1633 postretirement joint survivorship pension shall be  
1634 automatically canceled, and the member's right to receive  
1635 payments in accordance with subsections (a) to (c), inclusive,  
1636 of Section 45-37-123.100, as applicable, shall be reinstated.

1637 c. Death of Both Member and Designated  
1638 Beneficiary-Refund. Except as provided in the immediately  
1639 following sentence, in the event that a payment begins to the  
1640 member, no refund of employee contributions shall be paid  
1641 thereafter. Notwithstanding the foregoing sentence, in the  
1642 event that the member and his or her designated beneficiary  
1643 die, a refund shall be made in accordance with Section



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1644 45-37-123.104(4)c.

1645 (2) DIVORCE. In the event that a married member names  
1646 his or her spouse as designated beneficiary, a subsequent  
1647 divorce of the member and the designated beneficiary shall not  
1648 cancel an election of a postretirement joint survivorship  
1649 pension. However, in the event that a member or designated  
1650 beneficiary presents to the pension board what the pension  
1651 board believes to be a valid divorce decree, settlement  
1652 agreement, or domestic relations order, collectively, a DRO,  
1653 that provides for a waiver or forfeiture of the postretirement  
1654 joint survivorship pension, then such waiver or forfeiture  
1655 shall be recognized by the pension board, and, accordingly,  
1656 the postretirement joint survivorship pension shall be deemed  
1657 void, and the member's monthly pension benefit shall  
1658 thereafter pop-up to the amount that would have been payable  
1659 to the member under subsections (a) to (c) of Section  
1660 45-37-123.100, as applicable, as if the member had never  
1661 elected a postretirement joint survivorship pension. Such  
1662 pop-up shall occur in the month following the pension board's  
1663 receipt and approval of the DRO. The member shall not be  
1664 allowed to elect another joint survivorship pension. See also  
1665 Section 45-37-123.194(a) for additional rules relating to  
1666 certain DROs.

1667 (f) ~~Beneficiary~~ Designated beneficiary designation. Any  
1668 beneficiary designation made by a member for a preretirement  
1669 joint survivorship pension shall automatically lapse upon the  
1670 member's retirement or other termination of employment, and  
1671 such member shall complete new forms, to be provided by the



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1672 pension board, to designate a beneficiary of any  
1673 postretirement joint survivorship pension, in accordance with  
1674 ~~Section 45-37-123.103(d)~~ this section.

1675 (g) Proof of death and marriage. The pension board may  
1676 require proper proof of death or marriage in accordance with  
1677 Section 45-37-123.103(f)."

1678 "§45-37-123.102

1679 (a) Disability benefit.

1680 (1)a. Non-service connected disability ~~benefits~~  
1681 benefit. Subject to subsection ~~(h)~~ (b), any member who, after  
1682 accumulating 10 years of paid membership time, experiences a  
1683 total or partial and permanent disability as a result of a  
1684 non-service connected disability shall be entitled to receive,  
1685 at the time set forth in subsection ~~(e)~~ (c), a monthly  
1686 disability ~~retirement benefits~~ benefit determined in  
1687 accordance with Section 45-37-123.100, as though the disabled  
1688 member were entitled to a superannuation retirement benefit at  
1689 the commencement of the disability; however, there shall be a  
1690 percentage reduction of such benefit to reflect early  
1691 commencement of the payment, such percentage to be based on  
1692 the member's whole years from actual eligibility for a  
1693 superannuation retirement benefit, as set forth below.  
1694 Notwithstanding any provisions to the contrary, the minimum  
1695 monthly disability ~~retirement~~ benefit payable in connection  
1696 with a non-service connected disability occurring before May  
1697 17, 2021, shall be 50 percent of the monthly compensation the  
1698 member was receiving at the time he or she experienced a total  
1699 and permanent disability.



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	Number of Whole Years Until	Percentage Reduction of
1700		Superannuation Retirement
1701		Benefit
1702		
1703	1	93%
1704	2	87%
1705	3	82%
1706	4	77%
1707	5	72%
1708	6	68%
1709	7	64%
1710	8	60%
1711	9	57%
1712	10	54%
1713	11 or more	50%

1714 b. Any member who, after accumulating 10 years of paid  
1715 membership time, experiences a partial and permanent  
1716 disability as a result of a non-service connected disability,  
1717 shall be entitled to receive a monthly disability benefit  
1718 determined in accordance with subdivision (3).

1719 ~~(b)~~ (2) Service connected disability ~~benefits~~ benefit.  
1720 Subject to subsection ~~(h)~~ (b), any member who experiences a  
1721 total or partial and permanent disability as a result of a  
1722 service connected disability shall be entitled to receive a  
1723 monthly disability ~~retirement benefits~~ benefit in an amount



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1724 equal to 60 percent of the member's monthly compensation that  
1725 he or she was receiving at the time he or she experienced a  
1726 total and permanent disability. Any member who experiences a  
1727 partial and permanent disability as a result of a service  
1728 connected disability shall be entitled to receive a monthly  
1729 disability benefit determined in accordance with subdivision  
1730 (3).

1731 ~~(e)~~ (3) Partial disability benefits. In the event that a  
1732 member experiences a partial and permanent disability in  
1733 connection with either a non-service connected disability or a  
1734 service connected disability, the pension board and its  
1735 medical advisor shall determine the percentage of disability  
1736 suffered, and the member shall be entitled to the proportion  
1737 of the amount which would have been payable if the disability  
1738 were a total permanent disability.

1739 (b) Conditions for eligibility.

1740 (1) Disability shall be permanent. To be qualified to  
1741 receive a disability benefit, the disability, whether total or  
1742 partial, shall be permanent and shall be experienced on or  
1743 before a member's separation from employment with the county.  
1744 Disability benefits under this subsection shall only continue  
1745 for such time as a member continues to experience a permanent  
1746 disability, whether total or partial.

1747 (2) Application and medical examination. Applications  
1748 for a disability benefit shall be made in writing on forms  
1749 provided by the pension board. All applicants for a disability  
1750 benefit shall submit to all medical evaluations and  
1751 examinations required by the pension board.





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1752 (3) Certification and reexamination. All members  
1753 receiving a disability benefit shall certify any information  
1754 required by the pension board and shall submit to  
1755 reexamination as required by the pension board.

1756 (4) Member's duty to inform. Members receiving a  
1757 disability benefit shall notify the pension board in writing  
1758 within 30 days after accepting any full-time or part-time  
1759 employment, whether or not the employment is in the service of  
1760 the county.

1761 ~~(d)~~ (5) Disqualification from receipt of a disability  
1762 ~~benefits~~ benefit. No disability ~~retirement benefits~~ benefit  
1763 shall be paid if the use of intoxicating liquor, narcotic  
1764 drugs, or willful misconduct of the disabled member caused, or  
1765 substantially contributed to, the disability or if the cause  
1766 of the disability was voluntarily and willfully caused by the  
1767 disabled member.

1768 ~~(e)~~ (c) Timing of payment. Payment of disability  
1769 retirement benefits provided for by this section shall  
1770 commence when the member separates from employment with the  
1771 county and ceases to receive his or her compensation subject  
1772 to the employee contribution requirements set forth in Section  
1773 ~~45-37-123.80~~ 45-37-123.82 and once a determination of  
1774 disability has been made by the pension board.

1775 ~~(f) Reexamination of members receiving disability~~  
1776 ~~benefits. Disability retirement benefits under this section~~  
1777 ~~shall only continue for such time as the member continues to~~  
1778 ~~experience a total disability, or a partial disability as~~  
1779 ~~determined under subsection (c). The pension board may require~~



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1780 ~~any member receiving disability retirement benefits to submit~~  
1781 ~~to a medical examination by the medical advisor. If the member~~  
1782 ~~refuses to undergo the medical examination ordered by the~~  
1783 ~~pension board, the member's disability retirement benefits may~~  
1784 ~~be discontinued until the member consents to the examination.~~  
1785 ~~If a member's disability retirement benefits are discontinued~~  
1786 ~~based on the member's refusal to allow a reexamination by the~~  
1787 ~~medical advisor, the member shall wholly lose such benefits~~  
1788 ~~between the date of the member's refusal or failure to allow~~  
1789 ~~the examination and the date of examination thereafter made.~~  
1790 ~~Should the medical advisor report to the pension board that~~  
1791 ~~the member receiving disability retirement benefits is able to~~  
1792 ~~resume his or her usual occupation, such member shall be~~  
1793 ~~restored to his or her former position if the member's~~  
1794 ~~position is in the service of the county; otherwise, the~~  
1795 ~~member shall be placed on the appropriate layoff list of the~~  
1796 ~~county and shall not receive any additional payments for~~  
1797 ~~disability on and after the date the member is reemployed by~~  
1798 ~~the county or fails or refuses to accept such reemployment. If~~  
1799 ~~the member is reemployed by the county, the member shall~~  
1800 ~~resume employee contributions immediately upon reemployment in~~  
1801 ~~accordance with Section 45-37-123.80. Provided however, the~~  
1802 ~~pension board shall in no case make additional disability~~  
1803 ~~retirement benefit payments to a member on a particular~~  
1804 ~~disability claim beyond six months from the date the medical~~  
1805 ~~advisor reports to the pension board that the member is able~~  
1806 ~~to resume his or her usual occupation.~~

1807 ~~(g)~~ (d) Ineligibility for joint survivorship pension



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1808 option. A member electing a disability~~retirement~~ benefit  
1809 shall not be entitled to elect a joint survivorship pension  
1810 provided under Section 45-37-123.101, though a member may  
1811 elect a 25-year early retirement benefit if such member has  
1812 met the eligibility requirements set forth in Section  
1813 45-37-123.100 (b) (2).

1814 ~~(h)~~ (e) Ineligibility for disability~~retirement~~ benefit  
1815 if eligible for a superannuation retirement benefit. In the  
1816 event that a member is eligible for a superannuation  
1817 retirement benefit pursuant to Section 45-37-123.100(a), such  
1818 member shall not be eligible for a disability~~retirement~~  
1819 benefit.

1820 (f) Reemployment with the county. No disability benefit  
1821 shall be paid to a disabled member who is reemployed by the  
1822 county. Upon reemployment by the county in a position subject  
1823 to mandatory membership as provided in Section  
1824 45-37-123.50(1), a reemployed member shall resume employee  
1825 contributions as provided in Section 45-37-123.82 as a new  
1826 member of the system with no paid membership time. Upon  
1827 reemployment by the county in a position subject to optional  
1828 membership, the member's membership in the system shall  
1829 terminate unless the option to become a member of the system  
1830 is exercised in accordance with Section 45-37-123.50(2). If  
1831 the option to become a member is exercised in accordance with  
1832 Section 45-37-123.50(2), the reemployed member shall resume  
1833 employee contributions as provided in Section 45-37-123.82 as  
1834 a new member of the system with no paid membership time.

1835 ~~(i)~~ (g) Death. If a member dies while receiving payment



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1836 of a disability ~~retirement~~ benefit, the return of any  
1837 remaining portion of his or her employee contributions shall  
1838 be governed by Section ~~45-37-123.104(5)d~~ 45-37-123.104(4)d. If  
1839 the member has received payments in an amount at least equal  
1840 to the amount of employee contributions he or she made to the  
1841 plan at the time of death, then no further payments shall be  
1842 made upon the member's death."

1843           "§45-37-123.103

1844           (a) Preretirement death benefits. A vested member's  
1845 designated beneficiary is entitled to a preretirement joint  
1846 survivorship pension, as described below.

1847           (1) MARRIED MEMBER. If a married, active member dies,  
1848 then the designated beneficiary may elect, on a form provided  
1849 by the pension board, to be paid in one of the following  
1850 forms:

1851           a. One Hundred Percent Preretirement Joint Survivorship  
1852 Pension. If such member was eligible for a deferred retirement  
1853 benefit at the time of the member's death, then the designated  
1854 beneficiary may elect to be paid in the form of a 100 percent  
1855 preretirement joint survivorship pension, which is a monthly  
1856 annuity paid during the designated beneficiary's lifetime  
1857 which is equal to the actuarial equivalent of the benefits  
1858 that would have been paid to the member if, instead of dying,  
1859 the member had terminated employment.

1860           b. Refund. The designated beneficiary may elect a  
1861 refund of the member's employee contributions in accordance  
1862 with Section 45-37-123.104(4)b.

1863           (2) UNMARRIED MEMBER. If an unmarried, active member



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1864 dies, then one of the following shall apply:

1865           a. Preretirement Joint Survivorship Pension. If a  
1866 member becomes eligible for a deferred retirement benefit,  
1867 then the member may elect, on a form provided by the pension  
1868 board, a 100 percent preretirement joint survivorship pension,  
1869 which is a monthly annuity paid during the designated  
1870 beneficiary's lifetime which is equal to the actuarial  
1871 equivalent of the benefits that would have been paid to the  
1872 member if, instead of dying, the member had terminated  
1873 employment. In the event the designated beneficiary dies  
1874 before the member or in the event the member marries, any  
1875 election of a preretirement joint survivorship pension  
1876 automatically shall be revoked and the cost, as described in  
1877 subdivision (2) of subsection (c), for the preretirement  
1878 coverage shall cease to accumulate on the date of death of the  
1879 designated beneficiary or the member's date of marriage, as  
1880 applicable.

1881           b. Refund. Regardless of whether the member makes an  
1882 election for the designated beneficiary to be paid in the form  
1883 of a preretirement joint survivorship pension in accordance  
1884 with paragraph a., upon the member's death, the designated  
1885 beneficiary can elect to be paid a refund of the member's  
1886 employee contributions in accordance with Section  
1887 45-37-123.104(4)b. instead of being paid a preretirement joint  
1888 survivorship pension.

1889           (b) Timing of payments. In the event of an election of  
1890 a preretirement joint survivorship pension, such payment shall  
1891 begin as soon as administratively feasible after the pension



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1892 board is notified of the death and the designated  
1893 beneficiary's completion of all forms required by the pension  
1894 board. In any event, calculation of the amount of the death  
1895 benefit shall be made as of the day after the date of death  
1896 and any payments that do not occur as of the month following  
1897 the date of death shall be included in future payments. In the  
1898 event that a refund is to be paid, such payment shall be made  
1899 as soon as administratively feasible following the member's  
1900 death.

1901 (c) Cost of preretirement joint survivorship pension.

1902 (1) MARRIED MEMBERS.

1903 a. On and After October 1, 1999. On and after October  
1904 1, 1999, the 100 percent preretirement joint survivorship  
1905 pension shall be provided without additional charge with  
1906 respect to a member who is married at the time of his or her  
1907 death, and the cost of such benefit shall be borne by the  
1908 system; however, in the event that a member designates a  
1909 non-spousal beneficiary in accordance with subdivision (d)(1),  
1910 the cost of such benefit shall be borne by the member's  
1911 designated beneficiary.

1912 b. Prior to October 1, 1999. Prior to October 1, 1999,  
1913 a 50 percent preretirement joint survivorship pension was  
1914 provided to a member who was married at the time of his or her  
1915 death, instead of 100 percent, and such members and their  
1916 designated beneficiaries had an option to elect higher  
1917 percentages under certain rules. Members and designated  
1918 beneficiaries who elected a higher than 50 percent  
1919 preretirement joint survivorship pension prior to October 1,



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1920 1999, shall be charged for the increased percentage according  
1921 to actuarially-calculated costs, beginning with the date of  
1922 the election through September 30, 1999.

1923 (2) UNMARRIED MEMBERS. To the extent that a member who  
1924 is not married at the time of his or her death previously  
1925 elected payment of a preretirement joint survivorship pension  
1926 for his or her designated beneficiary, the benefit otherwise  
1927 payable to the member shall be actuarially reduced to reflect  
1928 the election of a preretirement joint survivorship pension.

1929 (d) Designated Beneficiaries.

1930 (1) PRERETIREMENT JOINT SURVIVORSHIP PENSION FOR A  
1931 MARRIED MEMBER. Unless otherwise elected in the manner  
1932 prescribed below, the designated beneficiary of a  
1933 preretirement joint survivorship pension of a member that is  
1934 married at the time of his or her death shall be the member's  
1935 surviving spouse. Except, however, a member may designate a  
1936 beneficiary other than the spouse if:

1937 a. The spouse has waived the right to be the member's  
1938 designated beneficiary; or

1939 b. The member has been abandoned, within the meaning of  
1940 local law, and the member has a court order to such effect  
1941 that has been received and approved by the pension board; or

1942 c. The member has no spouse.

1943 (2) ALL OTHER DEATH BENEFITS. Except as provided in  
1944 subdivision (1), a member, whether married or not, may  
1945 designate any beneficiary, and may do so without the need of  
1946 the consent of a spouse for a nonspousal beneficiary  
1947 designation.



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1948 (3) FORMS. Designation of a beneficiary shall be made  
1949 on a form provided by the pension board. A member may at any  
1950 time revoke a designation of a beneficiary or change a  
1951 designated beneficiary by filing written notice of revocation  
1952 or change with the pension board on a form provided by the  
1953 pension board. However, in the case of a preretirement joint  
1954 survivorship pension, the member's spouse shall again consent  
1955 in writing to any change in designated beneficiary unless the  
1956 original consent acknowledged that the spouse had the right to  
1957 limit consent only to a specific designated beneficiary and  
1958 that the spouse voluntarily elected to relinquish such right.  
1959 For a spouse's waiver to be valid, the signature of the spouse  
1960 executing such form shall be notarized. This consent to waiver  
1961 shall become irrevocable upon the death of the member.

1962 (4) FAILURE TO DESIGNATE A BENEFICIARY OR LACK OF  
1963 DESIGNATED BENEFICIARY. In the event no valid designation of  
1964 beneficiary exists, or if the designated beneficiary is not  
1965 alive at the time of the member's death, the death benefit  
1966 shall be payable to the member's spouse if there is a spouse,  
1967 and if there is no spouse, to the member's estate. If there is  
1968 no estate, the death benefit may be interpleaded into a court  
1969 of competent jurisdiction. Additionally, if the designated  
1970 beneficiary does not predecease the member, but dies prior to  
1971 the distribution of the death benefit, the death benefit shall  
1972 be paid to the designated beneficiary's estate. If there is no  
1973 estate, the death benefit may be interpleaded into a court of  
1974 competent jurisdiction.

1975 (5) MORE THAN ONE DESIGNATED BENEFICIARY. In the event





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1976 that more than one primary beneficiary is designated and a  
1977 designated primary beneficiary dies, absent any direction on  
1978 the beneficiary designation form to the contrary, the member's  
1979 benefit shall be divided equally among the remaining primary  
1980 designated beneficiaries.

1981 (6) DESIGNATION OF NONPERSONS AS BENEFICIARIES. A  
1982 member may designate a nonperson as a beneficiary, for  
1983 example, a trust or estate. In such event, the pension board  
1984 may require additional documentation, for example, trust  
1985 documents.

1986 (7) LAPSE OF BENEFICIARY DESIGNATION. Any beneficiary  
1987 designation made by a member for a preretirement joint  
1988 survivorship pension or refund shall automatically lapse upon  
1989 the member's election of a postretirement joint survivorship  
1990 pension; at that time, the member shall complete new forms, to  
1991 be provided by the pension board, to designate a beneficiary  
1992 of any postretirement joint survivorship pension.

1993 (8) EFFECT OF MARRIAGE OR DIVORCE UPON A BENEFICIARY  
1994 DESIGNATION. Except in the case of a preretirement joint  
1995 survivorship pension, marriage or divorce does not change any  
1996 previous beneficiary designation. In the case of a  
1997 preretirement joint survivorship pension, if an unmarried  
1998 member gets married, such member's spouse shall automatically  
1999 become the member's designated beneficiary, which can  
2000 thereafter be waived in accordance with subdivision (1).

2001 (9) DISTRIBUTION FOR MINOR OR INCOMPETENT BENEFICIARY.  
2002 In the event a distribution is to be made to a minor or  
2003 incompetent designated beneficiary, then the pension board may



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2004 direct that such distribution be paid to the legal guardian,  
2005 or if none in the case of a minor designated beneficiary, to a  
2006 parent of such designated beneficiary or a responsible adult  
2007 with whom the designated beneficiary maintains residence, or  
2008 to the custodian for such designated beneficiary under the  
2009 Uniform Gift to Minors Act or Gift to Minors Act, if permitted  
2010 by the laws of the state in which the designated beneficiary  
2011 resides. Such a payment to the legal guardian, custodian, or  
2012 parent of a minor designated beneficiary shall fully discharge  
2013 the trustee, the county, the pension board, and the plan from  
2014 further liability on account thereof. The pension board may  
2015 require evidence of guardianship, existence of custodial  
2016 accounts, or any other documentation that is deemed prudent to  
2017 establish that payment shall be made properly.

2018 (e) Other death benefits. Upon a member's retirement or  
2019 other termination of employment, any preretirement joint  
2020 survivorship pension benefit coverage ceases. Any other  
2021 benefits to be paid upon the death of a member or designated  
2022 beneficiary, such as refunds, are governed by Section  
2023 45-37-123.104(4).

2024 (f) Proof of death and marriage. The pension board may  
2025 require proper proof of death and marriage and evidence of the  
2026 right of any ~~person~~ individual to receive the death benefit  
2027 payable as a result of the death of a member as the pension  
2028 board may deem desirable. Proof may include a certified  
2029 marriage certificate, certified death certificate of the  
2030 member, and affidavits of relatives, members, or other ~~persons~~  
2031 individuals knowledgeable of the fact of marriage. ~~If no~~



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2032 ~~marriage certificate is available and for~~ For common law  
2033 ~~marriage~~ marriages entered into before January 1, 2017, proof  
2034 shall include evidence of the existence of the marriage as may  
2035 be required by law and also may require indemnification and  
2036 hold harmless agreements. The pension board may require that  
2037 unclear cases be adjudicated in an appropriate court  
2038 proceeding. An unmarried member may be required by the pension  
2039 board to sign an affidavit to certify that such member is not  
2040 married. The pension board's determination of death benefits  
2041 and the right of any ~~person~~ individual to receive payment  
2042 shall be conclusive."

2043           "§45-37-123.104

2044           The following provisions generally govern a member's  
2045 withdrawal and refund of employee contributions under the  
2046 plan. ~~Any member who fails to make application for the amount  
2047 of his or her employee contributions pursuant to this section  
2048 within five years after his or her separation from the service  
2049 of the county, except as otherwise provided herein or  
2050 otherwise determined by the pension board, shall be deemed to  
2051 have forfeited and donated such employee contributions to the  
2052 trust fund pursuant to Section 45-37-123.83. The foregoing  
2053 five year rule only applies to a member; in the case of a  
2054 beneficiary, the pension board may only forfeit employee  
2055 contributions after it has exhausted reasonable efforts to  
2056 locate the beneficiary.~~

2057           (1) WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS BY NONVESTED  
2058 MEMBERS NOT ENTITLED TO A DEFERRED RETIREMENT BENEFIT. In the  
2059 event that a nonvested member ceases to be an employee of the



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2060 county for reasons other than retirement, death, or disability  
2061 before he or she is eligible for a deferred retirement  
2062 benefit, such nonvested member, upon written or electronic  
2063 application therefore to the pension board, shall be paid the  
2064 full amount of his or her employee contributions, without  
2065 interest.

2066 (2) WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS BY VESTED  
2067 MEMBERS ENTITLED TO A DEFERRED RETIREMENT BENEFIT.

2068 a. General Rule. Subject to the limitations stated in  
2069 paragraph b., in the event that a vested member ceases to be  
2070 an employee of the county for reasons other than retirement,  
2071 death, or disability when he or she is eligible for a deferred  
2072 retirement benefit, but has not elected a deferred retirement  
2073 benefit, such member, upon written or electronic application  
2074 therefore to the pension board, shall be paid the full amount  
2075 of his or her employee contributions, with interest. The  
2076 provisions of Section 45-37-123.100(c)(1)b. shall govern the  
2077 withdrawal of employee contributions for any member who has  
2078 elected a deferred retirement benefit, but has not yet been  
2079 paid.

2080 b. Rules and Regulations. The pension board shall  
2081 establish rules and regulations setting forth the amount of  
2082 interest payable to members under this subdivision. In  
2083 establishing such rules and regulations, the pension board  
2084 shall take into consideration the interest the system has  
2085 earned on the employee contributions paid ~~into~~ to the ~~trust~~  
2086 ~~fund~~ system on account of the member withdrawing such employee  
2087 contributions. The pension board may amend such rules and



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2088 regulations at any time in its sole discretion.

2089 (3) PARTIAL REFUND OF EMPLOYEE CONTRIBUTIONS AND  
2090 CESSATION OF EMPLOYEE CONTRIBUTIONS AND EMPLOYER  
2091 CONTRIBUTIONS. When a member attains 30 years of paid  
2092 membership time, the member may elect to terminate his or her  
2093 employee contributions by filing with the pension board a  
2094 statement signed by the member stating that he or she elects  
2095 to terminate his or her employee contributions; in such case,  
2096 the employer contribution to the ~~trust fund~~ system on the  
2097 member's behalf shall cease. As soon as practicable after a  
2098 member files such statement, the pension board shall refund to  
2099 him or her all employee contributions, without interest, made  
2100 by him or her to the ~~trust fund~~ system subsequent to the date  
2101 on which the member accumulated sufficient service to entitle  
2102 him or her to ~~the maximum benefit that can be provided under~~  
2103 ~~the plan~~ terminate his or her employee contributions;  
2104 additionally the pension board shall refund to the county any  
2105 associated employer contributions, without interest.

2106 (4) REFUNDS UPON DEATH OF A MEMBER.

2107 a. Refund of Employee Contributions for Deceased,  
2108 Nonvested Active Members Not Entitled to Deferred Retirement  
2109 Benefits. If a nonvested active member dies, then an amount  
2110 equal to the total amount of such member's employee  
2111 contributions, without interest, may be refunded to the  
2112 member's designated beneficiary in lump sum form.

2113 b. Refund of Employee Contributions for Deceased,  
2114 Vested Members Entitled to Deferred Retirement Benefits, but  
2115 No Payments Have Commenced.



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2116           1. Eligibility. Unless an election has been made in  
2117 accordance with Section 45-37-123.103 to receive a  
2118 preretirement joint survivorship pension, if a vested member  
2119 dies, before payments have commenced, then an amount equal to  
2120 the total amount of such member's employee contributions, with  
2121 interest, shall be refunded to the member's designated  
2122 beneficiary in lump sum form. This rule shall apply regardless  
2123 of whether the member dies while active, or after a deferred  
2124 retirement election has been made, so long as payments have  
2125 not commenced.

2126           2. Rules and regulations. The pension board is  
2127 authorized to adopt interest rules and regulations providing  
2128 for the pension board to pay to a designated beneficiary  
2129 interest at the rate prescribed in such rules on the member's  
2130 employee contributions that are to be refunded to the  
2131 designated beneficiary. The interest rules and regulations  
2132 established shall prescribe the terms and conditions on which  
2133 such interest shall be payable and may impose such limitations  
2134 on the payment of interest as the pension board deems  
2135 appropriate.

2136           c. Refund of Employee Contributions for Deceased  
2137 Members Who Previously Elected a Postretirement Joint  
2138 Survivorship Pension.

2139           1. Eligibility - Retired member. Subject to items (i)  
2140 to (iii), inclusive, of subparagraph 2., if a retired member  
2141 dies after a postretirement joint survivorship pension has  
2142 been elected, then a refund may be paid in lump sum form only  
2143 as set forth in subparagraph 2.



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2144           2. Rules and regulations. The pension board is  
2145 authorized to adopt rules and regulations providing for the  
2146 pension board to refund a member's employee contributions  
2147 after such member dies with a postretirement joint  
2148 survivorship pension election in place and to pay interest on  
2149 any such refund, subject to the conditions and limitations  
2150 stated below:

2151           (i) Such postretirement joint survivorship pension  
2152 election shall not be repealed or rescinded but shall be in  
2153 effect at the time of the refund, and the member shall have  
2154 enough service at the time of his or her death to be entitled  
2155 to a deferred retirement benefit if a refund were not made;  
2156 and

2157           (ii) Both the member and the member's designated  
2158 primary beneficiary shall be deceased, thus, no refund is  
2159 payable in the event that only the member dies while receiving  
2160 payment of a postretirement joint survivorship pension; and

2161           (iii) The member's employee contributions shall exceed  
2162 the sum of all monthly ~~retirement~~ pension benefits the plan  
2163 has paid to the member ~~and/or~~ or the member's designated  
2164 beneficiary, or both.

2165           3. Amount of refund. If each of the requirements in  
2166 subparagraph 1. and subparagraph 2. are met, and the pension  
2167 board has adopted rules and regulations in accordance with  
2168 subparagraph 2., then the amount of the refund shall be equal  
2169 to the amount by which the member's employee contributions  
2170 exceed the sum of all monthly ~~retirement~~ pension benefits the  
2171 plan has paid to such member ~~and/or such~~ or the member's



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2172 designated beneficiary, or both, with interest as provided by  
2173 rules and regulations adopted by the pension board.

2174 4. Payment made to designated contingent beneficiary. A  
2175 refund pursuant to this paragraph shall be paid to the  
2176 member's designated contingent beneficiary, or, to the  
2177 member's estate if the designated contingent beneficiary also  
2178 is deceased or there is no other properly designated  
2179 contingent beneficiary. If there is no estate, a refund  
2180 pursuant to this paragraph may be interpleaded into a court of  
2181 competent jurisdiction.

2182 5. Death while active member. In the event that an  
2183 active member dies after a postretirement joint survivorship  
2184 pension has been elected, such election shall be deemed void  
2185 and the provisions of Section 45-37-123.103(a), preretirement  
2186 death benefits, shall apply.

2187 d. Refund of Employee Contributions for Deceased  
2188 Members Who Were Receiving Superannuation, Early, Disability,  
2189 or Deferred Retirement Benefit Payments. In the event that a  
2190 member dies while receiving a superannuation retirement  
2191 benefit, an early retirement benefit, a disability ~~retirement~~  
2192 benefit, or a deferred retirement benefit, then his or her  
2193 designated beneficiary shall be entitled to receive a refund  
2194 in an amount equal to the amount by which the member's  
2195 employee contributions exceed the sum of all monthly  
2196 ~~retirement~~ pension or disability benefits the plan has paid to  
2197 such member, with interest.

2198 e. Proof of Death and Marriage. The pension board may  
2199 require proper proof of death or marriage in accordance with





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2200 Section 45-37-123.103(f).

2201 (5) EMPLOYER CONTRIBUTIONS REMAIN IN TRUST FUND.

2202 Employer contributions are never refunded to the member or the  
2203 member's designated beneficiary. All associated employer  
2204 contributions shall remain in the trust fund, except such  
2205 employer contributions that are returned to the county  
2206 pursuant to subdivision (7).

2207 (6) CESSATION OF EMPLOYMENT. Unless otherwise  
2208 specifically provided in the plan, such as, pursuant to  
2209 subdivision (7), a member shall cease to be an employee of the  
2210 county in order to receive a refund of employee contributions.

2211 (7) REFUNDS TO CORRECT ERRORS. The pension board, in  
2212 its sole discretion, may refund employee contributions and  
2213 associated employer contributions to the county to correct  
2214 various errors, such as, inclusion in the plan of an  
2215 ineligible individual or overpayment of employee  
2216 contributions, in accordance with Section 45-37-123.23(b).

2217 (8) NO REFUNDS FOR QUALIFIED MILITARY SERVICE. There  
2218 shall be no refund of any contributions attributable to  
2219 amounts that the county restores pursuant to Section  
2220 45-37-123.80(b) due to a member's qualified military service.

2221 (9) TIMING OF REFUND PAYMENTS. In the event that a  
2222 refund is to be paid, such payment shall be made as soon as  
2223 administratively practical following the date upon which  
2224 entitlement to the refund occurs.

2225 (10) REFUND TO INCLUDE AMOUNTS TRANSFERRED FROM 457(b)  
2226 PLAN. In the event that any member transfers amounts from a §  
2227 457(b), Internal Revenue Code, plan in accordance with Section



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2228 45-37-123.190(b), a refund shall include such transferred  
2229 amounts, with interest if the member is vested."

2230 "§45-37-123.106

2231 (a) General rules.

2232 (1) EFFECTIVE DATE. Except as otherwise provided  
2233 herein, the provisions of this section shall apply for  
2234 purposes of determining required minimum distributions for  
2235 calendar years beginning on and after January 1, 1987.

2236 (2) REQUIREMENTS OF TREASURY REGULATIONS INCORPORATED.

2237 All distributions required under this section shall be  
2238 determined and made in accordance with § 401(a)(9), Internal  
2239 Revenue Code, including the incidental death benefit  
2240 requirement in § 401(a)(9)(G), and the regulations thereunder.

2241 (3) PRECEDENCE. Subject to the joint and survivor  
2242 annuity requirements of the plan, the requirements of this  
2243 section shall take precedence over any inconsistent provisions  
2244 of the plan.

2245 (b) Time and manner of distribution.

2246 (1) REQUIRED BEGINNING DATE. The member's entire  
2247 interest shall be distributed, or begin to be distributed, to  
2248 the member no later than the member's required beginning date.

2249 (2) DEATH OF MEMBER BEFORE DISTRIBUTIONS BEGIN. If the  
2250 member dies before distributions begin, the member's entire  
2251 interest shall be distributed, or begin to be distributed, no  
2252 later than as follows:

2253 a. Life Expectancy Rule, Spouse is Designated  
2254 Beneficiary. At the election of the member or, if no election  
2255 is made by the member, then at the election of the member's



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2256 designated beneficiary, if the member's surviving spouse is  
2257 the member's sole designated beneficiary, then distributions  
2258 to the surviving spouse shall begin by December 31st of the  
2259 calendar year immediately following the calendar year in which  
2260 the member died, or by December 31st of the calendar year in  
2261 which the member would have attained age ~~72~~ 73, for those  
2262 members who would have attained age 72 after December 31,  
2263 2022, and age 73 before January 1, 2033; or age 75, for those  
2264 members who would have attained age 73 after December 31,  
2265 2032, if later.

2266           b. Life Expectancy Rule, Spouse is Not Designated  
2267 Beneficiary. At the election of the member or, if no election  
2268 is made by the member, then at the election of the member's  
2269 designated beneficiary, if the member's surviving spouse is  
2270 not the member's sole designated beneficiary, then  
2271 distributions to the designated beneficiary shall begin by  
2272 December 31st of the calendar year immediately following the  
2273 calendar year in which the member died.

2274           c. Five-Year Rule.

2275           1. At the election of the member or, if no election is  
2276 made by the member, then at the election of the member's  
2277 designated beneficiary, if the member dies before  
2278 distributions begin and there is a designated beneficiary,  
2279 then the member's entire interest shall be distributed to the  
2280 designated beneficiary by December 31st of the calendar year  
2281 containing the fifth anniversary of the member's death. If the  
2282 member's surviving spouse is the member's sole designated  
2283 beneficiary and the surviving spouse dies after the member but



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2284 before distributions to either the member or the surviving  
2285 spouse begin, then this paragraph shall apply as if the  
2286 surviving spouse were the member. This paragraph shall apply  
2287 to all distributions.

2288           2. Members or designated beneficiaries may elect on an  
2289 individual basis whether the ~~5-year~~ five-year rule in this  
2290 paragraph or the life expectancy rule in paragraph a. or  
2291 paragraph b., and subsection (e) applies to distributions  
2292 after the death of a member who has a designated beneficiary.  
2293 The election shall be made no later than the earlier of  
2294 September 30th of the calendar year in which distribution  
2295 would be required to begin under paragraph a. or paragraph b.,  
2296 or by September 30th of the calendar year which contains the  
2297 fifth anniversary of the member's, or, if applicable,  
2298 surviving spouse's, death under this paragraph. If neither the  
2299 member nor designated beneficiary makes an election under this  
2300 subparagraph, distributions shall be made in accordance with  
2301 paragraph a. or paragraph b., and subsection (e).

2302           d. No Designated Beneficiary, Five-Year Rule. If there  
2303 is no designated beneficiary as of September 30th of the year  
2304 following the year of the member's death, the member's entire  
2305 interest shall be distributed by December 31st of the calendar  
2306 year containing the fifth anniversary of the member's death.

2307           e. Surviving Spouse Dies Before Distributions Begin.

2308           1. If the member's surviving spouse is the member's  
2309 sole designated beneficiary and the surviving spouse dies  
2310 after the member but before distributions to the surviving  
2311 spouse begin, then this subsection, other than paragraph a.,



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2312 shall apply as if the surviving spouse were the member.

2313           2. For purposes of this subsection and subsection (e),  
2314 distributions are considered to begin on the member's required  
2315 beginning date, or, if this paragraph applies, the date  
2316 distributions are required to begin to the surviving spouse  
2317 under paragraph a. If annuity payments irrevocably commence to  
2318 the member before the member's required beginning date, or to  
2319 the member's surviving spouse before the date distributions  
2320 are required to begin to the surviving spouse under paragraph  
2321 a., the date distributions are considered to begin is the date  
2322 distributions actually commence.

2323           (3) FORM OF DISTRIBUTION. Unless the member's interest  
2324 is distributed in the form of an annuity purchased from an  
2325 insurance company or in a single sum on or before the required  
2326 beginning date, as of the first distribution calendar year  
2327 distributions shall be made in accordance with subsections  
2328 (c), (d), and (e). If the member's interest is distributed in  
2329 the form of an annuity purchased from an insurance company,  
2330 distributions thereunder shall be made in accordance with the  
2331 requirements of § 401(a)(9), Internal Revenue Code, and the  
2332 regulations thereunder. Any part of the member's interest  
2333 which is in the form of an individual account described in §  
2334 414(k), Internal Revenue Code, shall be distributed in a  
2335 manner satisfying the requirements of § 401(a)(9) and the  
2336 regulations thereunder applicable to individual accounts.

2337           (c) Determination of amount to be distributed each  
2338 year.

2339           (1) GENERAL ANNUITY REQUIREMENTS. A member who is



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2340 required to begin payments as a result of attaining his or her  
2341 required beginning date, whose interest has not been  
2342 distributed in the form of an annuity purchased from an  
2343 insurance company or in a single sum before such date, may  
2344 receive payments in the form of annuity payments under the  
2345 plan. Payments under such annuity shall satisfy the following  
2346 requirements:

2347           a. The annuity distributions shall be paid in periodic  
2348 payments made at intervals not longer than one year.

2349           b. The distribution period shall be over a life, or  
2350 lives, or over a period certain not longer than the period  
2351 described in subsection (d) or subsection (e).

2352           c. Once payments have begun over a period certain, the  
2353 period certain shall not be changed even if the period certain  
2354 is shorter than the maximum permitted.

2355           d. Payments shall either be nonincreasing or increase  
2356 only to the extent permitted by one of the following  
2357 conditions:

2358           1. By an annual percentage increase that does not  
2359 exceed the annual percentage increase in a cost-of-living  
2360 index that for a 12-month period ending in the year during  
2361 which the increase occurs or the prior year.

2362           2. By a percentage increase that occurs at specified  
2363 times, such as, at specified ages, and does not exceed the  
2364 cumulative total of annual percentage increases in an eligible  
2365 cost-of-living index since the annuity starting date, or if  
2366 later, the date of the most recent percentage increase. In  
2367 cases providing a cumulative increase, an actuarial increase



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2368 may not be provided to reflect the fact that increases were  
2369 not provided in the interim years.

2370 3. To the extent of the reduction in the amount of the  
2371 member's payments to provide for a survivor benefit upon  
2372 death, but only if the beneficiary whose life was being used  
2373 to determine the distribution period described in subsection  
2374 (d) dies or is no longer the member's designated beneficiary  
2375 pursuant to a qualified domestic relations order within the  
2376 meaning of § 414(p), Internal Revenue Code.

2377 4. To allow a designated beneficiary to convert the  
2378 survivor portion of a joint and survivor annuity into a single  
2379 sum distribution upon the member's death.

2380 5. To pay increased benefits that result from a plan  
2381 amendment or other increase in the member's accrued benefit  
2382 under the plan.

2383 6. By a constant percentage, applied not less  
2384 frequently than annually, at a rate that is less than five  
2385 percent per year.

2386 7. To provide a final payment upon the death of the  
2387 member that does not exceed the excess of the actuarial  
2388 present value of the member's accrued benefit, within the  
2389 meaning of § 411(a)(7), Internal Revenue Code, calculated as  
2390 of the annuity starting date using the applicable interest  
2391 rate and the applicable mortality table under § 417(e),  
2392 Internal Revenue Code, or, if greater, the total amount of  
2393 employee contributions, over the total of payments before the  
2394 death of the member.

2395 8. As a result of dividend or other payments that



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2396 result from actuarial gains, provided:

2397 (i) Actuarial gain is measured not less frequently than  
2398 annually;

2399 (ii) The resulting dividend or other payments are  
2400 either paid no later than the year following the year for  
2401 which the actuarial experience is measured or paid in the same  
2402 form as the payment of the annuity over the remaining period  
2403 of the annuity, beginning no later than the year following the  
2404 year for which the actuarial experience is measured;

2405 (iii) The actuarial gain taken into account is limited  
2406 to actuarial gain from investment experience;

2407 (iv) The assumed interest rate used to calculate such  
2408 actuarial gains is not less than three percent; and

2409 (v) The annuity payments are not also being increased  
2410 by a constant percentage as described in subparagraph 6.

2411 (2) AMOUNT REQUIRED TO BE DISTRIBUTED BY REQUIRED  
2412 BEGINNING DATE.

2413 a. In the case of a member whose interest in the plan  
2414 is being distributed as an annuity pursuant to subdivision  
2415 (1), the amount that shall be distributed on or before the  
2416 member's required beginning date, or, if the member dies  
2417 before distributions begin, the date distributions are  
2418 required to begin under paragraph a. or b. of subdivision (2)  
2419 of subsection (b), is the payment that is required for one  
2420 payment interval.

2421 The second payment need not be made until the end of  
2422 the next payment interval even if that payment interval ends  
2423 in the next calendar year.





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2424 Payment intervals are the periods for which payments  
2425 are received, such as, bimonthly, monthly, semi-annually, or  
2426 annually. All of the member's benefit accruals as of the last  
2427 day of the first distribution calendar year shall be included  
2428 in the calculation of the amount of the annuity payments for  
2429 payment intervals ending on or after the member's required  
2430 beginning date.

2431 b. In the case of a single sum distribution of a  
2432 member's entire accrued benefit during a distribution calendar  
2433 year, the amount that is the required minimum distribution for  
2434 the distribution calendar year, and thus not eligible for  
2435 rollover under § 402(c), Internal Revenue Code, is determined  
2436 under this paragraph. The portion of the single sum  
2437 distribution that is a required minimum distribution is  
2438 determined by treating the single sum distribution as a  
2439 distribution from an individual account plan and treating the  
2440 amount of the single sum distribution as the member's account  
2441 balance as of the end of the relevant valuation calendar year.  
2442 If the single sum distribution is being made in the calendar  
2443 year containing the required beginning date and the required  
2444 minimum distribution for the member's first distribution  
2445 calendar year has not been distributed, the portion of the  
2446 single sum distribution that represents the required minimum  
2447 distribution for the member's first and second distribution  
2448 calendar year is not eligible for rollover.

2449 (3) ADDITIONAL ACCRUALS AFTER FIRST DISTRIBUTION  
2450 CALENDAR YEAR. Any additional benefits accruing to the member  
2451 in a calendar year after the first distribution calendar year



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2452 shall be distributed beginning with the first payment interval  
2453 ending in the calendar year immediately following the calendar  
2454 year in which such amount accrues. Notwithstanding the  
2455 preceding, the plan shall not fail to satisfy the requirements  
2456 of this subdivision and § 401(a)(9), Internal Revenue Code,  
2457 merely because there is an administrative delay in the  
2458 commencement of the distribution of the additional benefits  
2459 accrued in a calendar year, provided that the actual payment  
2460 of such amount commences as soon as practicable. However,  
2461 payment shall commence no later than the end of the first  
2462 calendar year following the calendar year in which the  
2463 additional benefit accrues, and the total amount paid during  
2464 such first calendar year shall be no less than the total  
2465 amount that was required to be paid during that year under  
2466 this subdivision.

2467 (4) DEATH OF MEMBER AFTER DISTRIBUTIONS BEGIN. If a  
2468 member dies after distribution of the member's interest begins  
2469 in the form of an annuity meeting the requirements of this  
2470 section, then the remaining portion of the member's interest  
2471 shall continue to be distributed over the remaining period  
2472 over which distributions commenced.

2473 (d) Requirements for annuity distributions that  
2474 commence during member's lifetime.

2475 (1) JOINT LIFE ANNUITIES WHERE THE DESIGNATED  
2476 BENEFICIARY IS THE MEMBER'S SPOUSE. If distributions commence  
2477 under a distribution option that is in the form of a joint and  
2478 survivor annuity for the joint lives of the member and the  
2479 member's spouse, the minimum distribution incidental benefit



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2480 requirement shall not be satisfied as of the date  
2481 distributions commence unless, under the distribution option,  
2482 the periodic annuity payment payable to the survivor does not  
2483 at any time on and after the member's required beginning date  
2484 exceed the annuity payable to the member. In the case of an  
2485 annuity that provides for increasing payments, the requirement  
2486 of this subdivision shall not be violated merely because  
2487 benefit payments to the designated beneficiary increase,  
2488 provided the increase is determined in the same manner for the  
2489 member and the designated beneficiary. If the form of  
2490 distribution combines a joint and survivor annuity for the  
2491 joint lives of the member and the member's spouse and a period  
2492 certain annuity, the preceding requirements shall apply to  
2493 annuity payments to be made to the designated beneficiary  
2494 after the expiration of the period certain.

2495 (2) JOINT LIFE ANNUITIES WHERE THE DESIGNATED  
2496 BENEFICIARY IS NOT THE MEMBER'S SPOUSE. If the member's  
2497 interest is being distributed in the form of a joint and  
2498 survivor annuity for the joint lives of the member and a  
2499 designated beneficiary other than the member's spouse, the  
2500 minimum distribution incidental benefit requirement shall not  
2501 be satisfied as of the date distributions commence unless  
2502 under the distribution option, the annuity payments to be made  
2503 on and after the member's required beginning date shall  
2504 satisfy the conditions of this subdivision. The periodic  
2505 annuity payment payable to the survivor shall not at any time  
2506 on and after the member's required beginning date exceed the  
2507 applicable percentage of the annuity payment payable to the



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2508 member using the table set forth in Treasury Regulation §  
2509 1.401(a)(9)-6, Q & A-2(c)(2). The applicable percentage is  
2510 based on the adjusted member/designated beneficiary age  
2511 difference. The adjusted member/designated beneficiary age  
2512 difference is determined by first calculating the excess of  
2513 the age of the member over the age of the designated  
2514 beneficiary based on their ages on their birthdays in a  
2515 calendar year. If the member is younger than age 70, the age  
2516 difference determined in the previous sentence is reduced by  
2517 the number of years that the member is younger than age 70 on  
2518 the member's birthday in the calendar year that contains the  
2519 annuity starting date. In the case of an annuity that provides  
2520 for increasing payments, the requirement of this subdivision  
2521 shall not be violated merely because benefit payments to the  
2522 designated beneficiary increase, provided the increase is  
2523 determined in the same manner for the member and the  
2524 designated beneficiary. If the form of distribution combines a  
2525 joint and survivor annuity for the joint lives of the member  
2526 and a ~~nonspouse~~ non-spouse designated beneficiary and a period  
2527 certain annuity, the preceding requirements shall apply to  
2528 annuity payments to be made to the designated beneficiary  
2529 after the expiration of the period certain.

2530 (3) PERIOD CERTAIN ANNUITIES. Unless the member's  
2531 spouse is the sole designated beneficiary and the form of  
2532 distribution is a period certain and no life annuity, the  
2533 period certain for an annuity distribution commencing during  
2534 the member's lifetime may not exceed the applicable  
2535 distribution period for the member under the Uniform Lifetime



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2536 Table set forth in Treasury Regulation § 1.401(a)(9)-9 for the  
2537 calendar year that contains the annuity starting date. If the  
2538 annuity starting date precedes the year in which the member  
2539 reaches age 70, the applicable distribution period for the  
2540 member is the distribution period for age 70 under the Uniform  
2541 Lifetime Table set forth in Treasury Regulation §  
2542 1.401(a)(9)-9 plus the excess of 70 over the age of the member  
2543 as of the member's birthday in the year that contains the  
2544 annuity starting date. If the member's spouse is the member's  
2545 sole designated beneficiary and the form of distribution is a  
2546 period certain and no life annuity, the period certain may not  
2547 exceed the longer of the member's applicable distribution  
2548 period, as determined under this subdivision, or the joint  
2549 life and last survivor expectancy of the member and the  
2550 member's spouse as determined under the Joint and Last  
2551 Survivor Table set forth in Treasury Regulation §  
2552 1.401(a)(9)-9, using the member's and spouse's attained ages  
2553 as of the member's and spouse's birthdays in the calendar year  
2554 that contains the annuity starting date.

2555 (e) Requirements for minimum distributions where member  
2556 dies before date distributions begin.

2557 (1) MEMBER SURVIVED BY DESIGNATED BENEFICIARY AND LIFE  
2558 EXPECTANCY RULE.

2559 At the election of the member or, if no election is  
2560 made by the member, then at the election of the member's  
2561 designated beneficiary, if the member dies before the date  
2562 distribution of his or her interest begins and there is a  
2563 designated beneficiary, the member's entire interest shall be



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2564 distributed, beginning no later than the time described in  
2565 paragraph a. or b. of subdivision (2) of subsection (b), over  
2566 the life of the designated beneficiary or over a period  
2567 certain not exceeding:

2568           a. Unless the annuity starting date is before the first  
2569 distribution calendar year, the life expectancy of the  
2570 designated beneficiary determined using the designated  
2571 beneficiary's age as of the designated beneficiary's birthday  
2572 in the calendar year immediately following the calendar year  
2573 of the member's death; or

2574           b. If the annuity starting date is before the first  
2575 distribution calendar year, the life expectancy of the  
2576 designated beneficiary determined using the designated  
2577 beneficiary's age as of the designated beneficiary's birthday  
2578 in the calendar year that contains the annuity starting date.

2579           (2) MEMBER SURVIVED BY DESIGNATED BENEFICIARY AND  
2580 FIVE-YEAR RULE. At the election of the member or, if no  
2581 election is made by the member, then at the election of the  
2582 member's designated beneficiary, if the member dies before  
2583 distributions begin and there is a designated beneficiary,  
2584 then the member's entire interest shall be distributed to the  
2585 designated beneficiary by December 31st of the calendar year  
2586 containing the fifth anniversary of the member's death. This  
2587 subdivision shall apply to all distributions.

2588           (3) NO DESIGNATED BENEFICIARY. If the member dies  
2589 before the date distributions begin and there is no designated  
2590 beneficiary as of September 30th of the year following the  
2591 year of the member's death, distribution of the member's



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2592 entire interest shall be completed by December 31st of the  
2593 calendar year containing the fifth anniversary of the member's  
2594 death.

2595 (4) DEATH OF SURVIVING SPOUSE BEFORE DISTRIBUTIONS TO  
2596 SURVIVING SPOUSE BEGIN. If the member dies before the date  
2597 distribution of his or her interest begins, the member's  
2598 surviving spouse is the member's sole designated beneficiary,  
2599 and the surviving spouse dies before distributions to the  
2600 surviving spouse begin, this subsection shall apply as if the  
2601 surviving spouse were the member, except that the time by  
2602 which distributions shall begin shall be determined without  
2603 regard to paragraph a. of subdivision (2) of subsection (b).

2604 (f) Definitions.

2605 (1) ACTUARIAL GAIN. The difference between an amount  
2606 determined using the actuarial assumptions, such as,  
2607 investment return, mortality, expense, and other similar  
2608 assumptions, used to calculate the initial payments before  
2609 adjustment for any increases and the amount determined under  
2610 the actual experience with respect to those factors. Actuarial  
2611 gain also includes differences between the amount determined  
2612 using actuarial assumptions when an annuity was purchased or  
2613 commenced and such amount determined using actuarial  
2614 assumptions used in calculating payments at the time the  
2615 actuarial gain is determined.

2616 (2) DESIGNATED BENEFICIARY. The individual who is  
2617 ~~designated as the beneficiary under Section 45-37-123.103 and~~  
2618 ~~is~~ the designated beneficiary under § 401(a)(9), Internal  
2619 Revenue Code, and Treasury Regulation ~~§ 1.401(a)(9)-1, Q & A-4~~



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2620 § 1.401(a)(9)-4 and is designated as the beneficiary under  
2621 Section 45-37-123.103 to the extent not otherwise inconsistent  
2622 with the Internal Revenue Code or regulations thereunder.

2623 (3) DISTRIBUTION CALENDAR YEAR. A calendar year for  
2624 which a minimum distribution is required. For distributions  
2625 beginning before the member's death, the first distribution  
2626 calendar year is the calendar year immediately preceding the  
2627 calendar year which contains the member's required beginning  
2628 date. For distributions beginning after the member's death,  
2629 the first distribution calendar year is the calendar year in  
2630 which distributions are required to begin pursuant to  
2631 subsection (b).

2632 (4) ELIGIBLE COST-OF-LIVING INDEX. An index described  
2633 below:

2634 a. A consumer price index that is based on prices of  
2635 all items, or all items excluding food and energy, and issued  
2636 by the Bureau of Labor Statistics, including an index for a  
2637 specific population, such as urban consumers or urban wage  
2638 earners and clerical workers, and an index for a geographic  
2639 area or areas, such as a given metropolitan area or state; or

2640 b. A percentage adjustment based on a cost-of-living  
2641 index described in paragraph a., or a fixed percentage, if  
2642 less. In any year when the cost-of-living index is lower than  
2643 the fixed percentage, the fixed percentage may be treated as  
2644 an increase in an eligible cost-of-living index, provided it  
2645 does not exceed the sum of:

- 2646 1. The cost-of-living index for that year; and
- 2647 2. The accumulated excess of the annual cost-of-living





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2648 index from each prior year over the fixed annual percentage  
2649 used in that year, reduced by any amount previously utilized  
2650 under this paragraph.

2651 c. A percentage adjustment based on the increase in  
2652 compensation for the position held by the member at the time  
2653 of retirement, and provided under the terms of the plan.

2654 (5) LIFE EXPECTANCY. The life expectancy as computed by  
2655 use of the Single Life Table in Treasury Regulation §  
2656 1.401(a)(9)-9.

2657 (6) REQUIRED BEGINNING DATE. The April 1st of the  
2658 calendar year following the later of:

2659 a. The calendar year in which the member attains age ~~72~~  
2660 73, for those members who attain age 72 after December 31,  
2661 2022, and age 73 before January 1, 2033; or attains age 75,  
2662 for those members who attain age 73 after December 31, 2032;  
2663 or

2664 b. The calendar year in which the member retires."  
2665 "§45-37-123.108

2666 Except as otherwise specifically provided in this  
2667 section, this section shall be effective as of January 1,  
2668 1993.

2669 (1) ROLLOVERS GENERALLY.

2670 a. Notwithstanding any provision of the plan to the  
2671 contrary that would otherwise limit a distributee's election  
2672 under this section, a distributee, at the time and in the  
2673 manner prescribed by the pension board, may elect to have any  
2674 portion of an eligible rollover distribution that is equal to  
2675 at least two hundred dollars (\$200) paid directly to an



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2676 eligible retirement plan specified by the distributee in a  
2677 direct rollover.

2678           b. For purposes of this subdivision, the following  
2679 definitions shall apply:

2680           1.(i) An eligible rollover distribution is any  
2681 distribution of all or any portion of the balance to the  
2682 credit of the distributee, except that an eligible rollover  
2683 distribution does not include: Any distribution that is one of  
2684 a series of substantially equal periodic payments, not less  
2685 frequently than annually, made for the life, or life  
2686 expectancy, of the distributee or the joint lives, or joint  
2687 life expectancies, of the distributee and the distributee's  
2688 designated beneficiary, or for a specified period of 10 years  
2689 or more; any distribution to the extent such distribution is  
2690 required under § 401(a)(9), Internal Revenue Code; the portion  
2691 of any other distribution that is not includible in gross  
2692 income, determined without regard to the exclusion for net  
2693 unrealized appreciation with respect to employer securities;  
2694 any hardship distribution; and any other distribution that is  
2695 reasonably expected to total less than two hundred dollars  
2696 (\$200) during a year.

2697           (ii) Notwithstanding the above, with respect to  
2698 distributions made after December 31, 2001, a portion of a  
2699 distribution shall not fail to be an eligible rollover  
2700 distribution merely because the portion consists of ~~aftertax~~  
2701 after-tax employee contributions which are not includible in  
2702 gross income. However, such portion may be transferred only to  
2703 an individual retirement account or annuity described in §



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2704 408(a) or (b), Internal Revenue Code, or to a qualified trust  
2705 described in § 401(a), Internal Revenue Code, or annuity  
2706 contract described in § 403(a), Internal Revenue Code, that  
2707 agrees to separately account for amounts so transferred,  
2708 including separately accounting for the portion of such  
2709 distribution which is includible in gross income and the  
2710 portion of such distribution which is not so includible.

2711 2. With respect to distributions made after December  
2712 31, 2001, an eligible retirement plan is an individual  
2713 retirement account described in § 408(a), Internal Revenue  
2714 Code, an individual retirement annuity described in § 408(b),  
2715 Internal Revenue Code, other than an endowment contract, a  
2716 qualified trust described in § 401(a), Internal Revenue Code,  
2717 which is exempt from tax under § 501(a), Internal Revenue  
2718 Code, that accepts the distributee's eligible rollover  
2719 distribution, an annuity plan described in § 403(a), Internal  
2720 Revenue Code, an eligible deferred compensation plan described  
2721 in § 457(b), Internal Revenue Code, which is maintained by an  
2722 eligible employer described in § 457(e)(1)(A), Internal  
2723 Revenue Code, and an annuity contract described in § 403(b),  
2724 Internal Revenue Code, that accepts the distributee's eligible  
2725 rollover distribution.

2726 3. A distributee includes an employee or former  
2727 employee. In addition, the employee's or former employee's  
2728 surviving spouse and the employee's or former employee's  
2729 spouse or former spouse who is the alternate payee under a  
2730 qualified domestic relations order, as defined in § 414(p),  
2731 Internal Revenue Code, are distributees with regard to the



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2732 interest of the spouse or former spouse.

2733 4. A direct rollover is a payment by the plan to the  
2734 eligible retirement plan specified by the distributee.

2735 (2) DIRECT ROLLOVERS BY NON-SPOUSE DESIGNATED  
2736 BENEFICIARIES.

2737 a. Notwithstanding the direct rollover provisions in  
2738 subdivision (1), for distributions after December 31, 2009, in  
2739 accordance with § 402(c)(11), Internal Revenue Code, a  
2740 non-spouse beneficiary who is a designated beneficiary, as  
2741 defined in § 401(a)(9)(E), Internal Revenue Code, and the  
2742 regulations thereunder, by means of a direct  
2743 trustee-to-trustee transfer, may roll over all or any portion  
2744 of an eligible rollover distribution, as defined in §  
2745 401(a)(31), Internal Revenue Code, to an individual retirement  
2746 plan the designated beneficiary establishes for purposes of  
2747 receiving the distribution. If a non-spouse designated  
2748 beneficiary receives a distribution from the plan, the  
2749 distribution is not eligible for a 60-day, non-direct  
2750 rollover.

2751 b. If the member's named designated beneficiary is a  
2752 trust, the plan may make a direct trustee-to-trustee transfer  
2753 to an individual retirement plan on behalf of the trust,  
2754 provided the trust satisfies the requirements to be a  
2755 designated beneficiary within the meaning of § 401(a)(9)(E),  
2756 Internal Revenue Code.

2757 c. A non-spouse designated beneficiary may not roll  
2758 over an amount which is a required minimum distribution, as  
2759 determined under applicable regulations and other Internal



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2760 Revenue Service guidance. If the member dies before the  
2761 member's required beginning date and the non-spouse designated  
2762 beneficiary rolls over to an individual retirement plan the  
2763 maximum amount eligible for rollover, the non-spouse  
2764 designated beneficiary may elect to use either the five-year  
2765 rule or the life expectancy rule, pursuant to Treasury  
2766 Regulation § 1.401(a)(9)-3, A-4(c), in determining the  
2767 required minimum distributions from the individual retirement  
2768 plan that receives the non-spouse designated beneficiary's  
2769 distribution.

2770 (3) ROLLOVER TO ROTH IRA. For distributions made after  
2771 December 31, 2007, in accordance with § 408A, Internal Revenue  
2772 Code, a member may elect to roll over directly an eligible  
2773 rollover distribution to a Roth IRA, as defined in § 408A(b),  
2774 Internal Revenue Code."

2775 "§45-37-123.132

2776 (a) Adjustment if fewer than 10 years. Effective for  
2777 limitation years ending after December 31, 2001, if a member  
2778 has fewer than 10 years of participation in the plan, then the  
2779 defined benefit dollar limitation of Section 45-37-123.131(a)  
2780 shall be multiplied by a fraction, the numerator of which is  
2781 the number of years, or part thereof, of participation in the  
2782 plan, and the denominator of which is 10. However, in no event  
2783 shall such fraction be less than one-tenth. Notwithstanding  
2784 the foregoing, no adjustment shall be made to the defined  
2785 benefit dollar limitation for a distribution on account of a  
2786 member becoming disabled by reason of personal injuries or  
2787 sickness, or as a result of the death of a member. For



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2788 purposes of this subsection, a year of participation means  
2789 each accrual computation period for which the following  
2790 conditions are met: The member is credited with a period of  
2791 service for benefit accrual purposes, required under the terms  
2792 of the plan in order to accrue a benefit for the accrual  
2793 computation period, and the member is included as a member  
2794 under the eligibility provisions of the plan for at least one  
2795 day of the accrual computation period. If these two conditions  
2796 are met, the portion of a year of participation credited to  
2797 the member shall equal the amount of benefit accrual service  
2798 credited to the member for such accrual computation period. A  
2799 member who is permanently and totally disabled within the  
2800 meaning of § 415(c)(3)(C)(i), Internal Revenue Code, for an  
2801 accrual computation period shall receive a year of  
2802 participation with respect to the period. In no event shall  
2803 more than one year of participation be credited for any  
2804 12-month period.

2805 (b) Adjustment of defined benefit dollar limitation for  
2806 commencement before age 62. Effective for benefits commencing  
2807 in limitation years ending after December 31, 2001, the  
2808 defined benefit dollar limitation shall be adjusted if the  
2809 annuity starting date of the member's benefit is before age  
2810 62.

2811 (1) LIMITATION YEARS BEGINNING BEFORE JULY 1, 2007. If  
2812 the annuity starting date for the member's benefit is prior to  
2813 age 62 and occurs in a limitation year beginning before July  
2814 1, 2007, the defined benefit dollar limitation for the  
2815 member's annuity starting date is the annual amount of a



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2816 benefit payable in the form of a straight life annuity  
2817 commencing at the member's annuity starting date that is the  
2818 actuarial equivalent of the defined benefit dollar limitation  
2819 with actuarial equivalence computed using whichever of the  
2820 following produces the smaller annual amount: The applicable  
2821 interest rate and applicable mortality table, or other tabular  
2822 factor, as defined in § 417(e)(3), Internal Revenue Code; or a  
2823 five percent interest rate assumption and the applicable  
2824 mortality table as defined in § 417(e)(3), Internal Revenue  
2825 Code.

2826 (2) LIMITATION YEARS BEGINNING ON OR AFTER JULY 1,  
2827 2007.

2828 a. Plan Does Not Have Immediately Commencing Straight  
2829 Life Annuity Payable at Both Age 62 and the Age of Benefit  
2830 Commencement. If the annuity starting date for the member's  
2831 benefit is prior to age 62 and occurs in a limitation year  
2832 beginning on or after July 1, 2007, and the plan does not have  
2833 an immediately commencing straight life annuity payable at  
2834 both age 62 and the age of benefit commencement, the defined  
2835 benefit dollar limitation for the member's annuity starting  
2836 date is the annual amount of a benefit payable in the form of  
2837 a straight life annuity commencing at the member's annuity  
2838 starting date that is the actuarial equivalent of the defined  
2839 benefit dollar limitation with actuarial equivalence computed  
2840 using a five percent interest rate assumption and the  
2841 applicable mortality table under Treasury Regulation §  
2842 1.417(e)-1(d)(2), or the applicable mortality table as  
2843 required by law, that is effective for that annuity starting



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2844 date, and expressing the member's age based on completed  
2845 calendar months as of the annuity starting date.

2846           b. Plan Has Immediately Commencing Straight Life  
2847 Annuity Payable at Both Age 62 and the Age of Benefit  
2848 Commencement. If the annuity starting date for the member's  
2849 benefit is prior to age 62 and occurs in a limitation year  
2850 beginning on or after July 1, 2007, and the plan has an  
2851 immediately commencing straight life annuity payable at both  
2852 age 62 and the age of benefit commencement, the defined  
2853 benefit dollar limitation for the member's annuity starting  
2854 date is the lesser of the limitation determined under  
2855 paragraph a. and the defined benefit dollar limitation  
2856 multiplied by the ratio of the annual amount of the  
2857 immediately commencing straight life annuity under the plan at  
2858 the member's annuity starting date to the annual amount of the  
2859 immediately commencing straight life annuity under the plan at  
2860 age 62, both determined without applying the limitations of  
2861 this subpart.

2862           (3) MORTALITY ADJUSTMENTS. Notwithstanding the other  
2863 requirements of this subsection, no adjustment shall be made  
2864 to the defined benefit dollar limitation to reflect the  
2865 probability of a member's death between the annuity starting  
2866 date and age 62 if benefits are not forfeited upon the death  
2867 of the member prior to the annuity starting date. To the  
2868 extent benefits are forfeited upon death before the annuity  
2869 starting date, such an adjustment shall be made. For this  
2870 purpose, no forfeiture shall be treated as occurring upon the  
2871 member's death if the plan does not charge members for





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2872 providing a qualified preretirement survivor annuity, as  
2873 defined in § 417(c), Internal Revenue Code, upon the member's  
2874 death.

2875 (4) EXCEPTION FOR CERTAIN MEMBERS TO THE ADJUSTMENT OF  
2876 DEFINED BENEFIT DOLLAR LIMITATION FOR COMMENCEMENT BEFORE AGE  
2877 62.

2878 a. Qualified Participants. Pursuant to § 415(b)(2)(G)  
2879 and (H), Internal Revenue Code, no age adjustment is made to  
2880 the defined benefit dollar limitation for commencement before  
2881 age 62 for any qualified participant. For this purpose, a  
2882 qualified participant is a participant in a defined benefit  
2883 plan that is maintained by a state or any political  
2884 subdivision of a state with respect to whom the service taken  
2885 into account in determining the amount of the benefit under  
2886 the defined benefit plan includes at least 15 years of service  
2887 of the participant as a full-time employee of any police  
2888 department or fire department that is organized and operated  
2889 by the state or political subdivision maintaining such defined  
2890 benefit plan to provide police protection, firefighting  
2891 services, or emergency medical services for any area within  
2892 the jurisdiction of such state or political subdivision, or as  
2893 a member of the Armed Forces of the United States.

2894 b. Survivor and Disability Benefits. Pursuant to §  
2895 415(b)(2)(I), Internal Revenue Code, no age adjustment is made  
2896 to the defined benefit dollar limitation for commencement  
2897 before age 62 for a distribution from the plan on account of a  
2898 member becoming disabled by reason of personal injuries or  
2899 sickness, or as a result of the death of a member.



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2900 (c) Actuarial equivalence of forms of benefit other  
2901 than a straight life annuity. Effective for distributions in  
2902 plan years beginning after December 31, 2003, the  
2903 determination of actuarial equivalence of forms of benefit  
2904 other than a straight life annuity shall be made in accordance  
2905 with subdivision (1) or subdivision (2).

2906 (1) BENEFIT FORMS NOT SUBJECT TO § 417(e)(3), INTERNAL  
2907 REVENUE CODE. The straight life annuity that is actuarially  
2908 equivalent to the member's form of benefit shall be determined  
2909 under this subdivision if the form of the member's benefit is  
2910 either a nondecreasing annuity, other than a straight life  
2911 annuity, payable for a period of not less than the life of the  
2912 member, or, in the case of a qualified preretirement survivor  
2913 annuity, the life of the surviving spouse, or an annuity that  
2914 decreases during the life of the member merely because of the  
2915 death of the survivor annuitant, but only if the reduction is  
2916 not below 50 percent of the benefit payable before the death  
2917 of the survivor annuitant, or the cessation or reduction of  
2918 Social Security supplements or qualified disability payments,  
2919 as defined in § 401(a)(11), Internal Revenue Code.

2920 a. Limitation Years Beginning Before July 1, 2007. For  
2921 limitation years beginning before July 1, 2007, the  
2922 actuarially equivalent straight life annuity is equal to the  
2923 annual amount of the straight life annuity commencing at the  
2924 same annuity starting date that has the same actuarial present  
2925 value as the member's form of benefit computed using whichever  
2926 of the following produces the greater annual amount:

2927 1. The applicable interest rate and applicable



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2928 mortality table, or other tabular factor, as defined in §  
2929 417(e)(3), Internal Revenue Code, for adjusting benefits in  
2930 the same form; or

2931           2. Five percent interest rate assumption and the  
2932 applicable mortality table as defined in § 417(e)(3), Internal  
2933 Revenue Code.

2934           b. Limitation Years Beginning On or After July 1, 2007.  
2935 For limitation years beginning on or after July 1, 2007, the  
2936 actuarially equivalent straight life annuity is equal to the  
2937 greater of:

2938           1. The annual amount of the straight life annuity, if  
2939 any, payable to the member under the plan commencing at the  
2940 same annuity starting date as the member's form of benefit; or

2941           2. The annual amount of the straight life annuity  
2942 commencing at the same annuity starting date that has the same  
2943 actuarial present value as the member's form of benefit,  
2944 computed using a five percent interest rate assumption and the  
2945 applicable mortality table as described in Treasury Regulation  
2946 § 1.417(e)-1(d)(2), or the applicable mortality table as  
2947 required by law, for that annuity starting date.

2948           (2) BENEFIT FORMS SUBJECT TO § 417(e)(3) INTERNAL  
2949 REVENUE CODE. The straight life annuity that is actuarially  
2950 equivalent to the member's form of benefit shall be determined  
2951 under this subdivision if the form of the member's benefit is  
2952 other than a benefit form described in subdivision (1). In  
2953 this case, the actuarially equivalent straight life annuity  
2954 shall be determined as follows:

2955           a. Annuity Starting Date in Plan Years Beginning After



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2956 2005. If the annuity starting date of the member's form of  
2957 benefit is in a plan year beginning after 2005, the  
2958 actuarially equivalent straight life annuity is equal to the  
2959 greatest of:

2960 1. The annual amount of the straight life annuity  
2961 commencing at the same annuity starting date that has the same  
2962 actuarial present value as the member's form of benefit,  
2963 computed using the assumptions, as defined in subdivision (3)  
2964 of Section 45-37-123.01;

2965 2. The annual amount of the straight life annuity  
2966 commencing at the same annuity starting date that has the same  
2967 actuarial present value as the member's form of benefit,  
2968 computed using a five and one-half percent interest rate  
2969 assumption and the applicable mortality table for the  
2970 distribution under Treasury Regulation § 1.417(e)-1(d)(2), or  
2971 the applicable mortality table as required by law; or

2972 3. The annual amount of the straight life annuity  
2973 commencing at the same annuity starting date that has the same  
2974 actuarial present value as the member's form of benefit,  
2975 computed for the distribution under Treasury Regulation §  
2976 1.417(e)-1(d)(3), or the applicable interest rate as required  
2977 by law, and the applicable mortality table for the  
2978 distribution under Treasury Regulation § 1.417(e)-1(d)(2), or  
2979 the applicable mortality table as required by law, divided by  
2980 1.05.

2981 b. Annuity Starting Date in Plan Years Beginning in  
2982 2004 or 2005. If the annuity starting date of the member's  
2983 form of benefit is in a plan year beginning in 2004 or 2005,



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2984 the actuarially equivalent straight life annuity is equal to  
2985 the annual amount of the straight life annuity commencing at  
2986 the same annuity starting date that has the same actuarial  
2987 present value as the member's form of benefit, computed using  
2988 whichever of the following produces the greater annual amount:

2989 1. The applicable interest rate and applicable  
2990 mortality table, or other tabular factor, as defined in §  
2991 417(e)(3), Internal Revenue Code, for adjusting benefits in  
2992 the same form; or

2993 2. A five and one-half percent interest rate assumption  
2994 and the applicable mortality table for the distribution under  
2995 Treasury Regulation § 1.417(e)-1(d)(2), or the applicable  
2996 mortality table as required by law.

2997 (d) For purposes of Section 45-37-123.130 and  
2998 subsection (b), no adjustments under § 415(d), Internal  
2999 Revenue Code, shall be taken into account before the  
3000 limitation year for which such adjustment first takes effect.

3001 (e) For purposes of Section 45-37-123.130, no actuarial  
3002 adjustment to the benefit is required for the value of a  
3003 qualified joint and survivor annuity, ancillary benefits that  
3004 are not directly related to retirement benefits, such as a  
3005 qualified disability benefit, preretirement death benefits,  
3006 and postretirement medical benefits, as set forth in § 415(b),  
3007 Internal Revenue Code, and Treasury Regulation §  
3008 1.415(b)-1(c)(4)(1)(B), and the value of postretirement  
3009 cost-of-living increases made in accordance with § 415(d),  
3010 Internal Revenue Code, and Treasury Regulation §  
3011 1.415-3(c)(2)(iii). The annual benefit does not include any



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3012 benefits attributable to employee contributions or rollover  
3013 contributions, or the assets transferred from a qualified plan  
3014 that was not maintained by the county."

3015 "§45-37-123.150

3016 (a) The pension board shall have the right at any time  
3017 to amend the plan, subject to the limitations of this section.

3018 Any amendment shall be consistent with the act, any other  
3019 legislation relating to the system, or consistent with other  
3020 authority granted to the pension board. Additionally, in the  
3021 event that the Legislature amends the act or makes other  
3022 statutory changes that impact the terms of the plan, the  
3023 pension board ~~shall~~, subject to applicable law, may cause the  
3024 plan to be amended as necessary to reflect ~~such~~ the

3025 legislation. ~~The pension board, and each of its individual~~  
3026 ~~members, when acting in its or their official capacity, shall~~  
3027 ~~be immune from civil liability against the claims of any~~  
3028 ~~individual, member, or other entity of any nature whatsoever~~  
3029 ~~arising out of the pension board's or its members'~~  
3030 ~~administration of the plan or related to its decisions or~~  
3031 ~~actions, which decisions or actions were made in good faith,~~  
3032 ~~without malice, and predicated upon information that was then~~  
3033 ~~available to the pension board.~~

3034 ~~(b) As determined by the pension board or by~~  
3035 ~~legislative act, any change in the pension rate may apply to~~  
3036 ~~all pensions payable under the plan, including pensions~~  
3037 ~~granted prior to the effective date of the change in the~~  
3038 ~~pension rate. This subsection shall apply whether such change~~  
3039 ~~results in the pension benefit being increased or decreased.~~



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3040 ~~Accordingly, any increase or decrease in the pension rate may~~  
3041 ~~be applicable not only to persons who have not yet begun to~~  
3042 ~~receive their pension benefits, but also to persons who have~~  
3043 ~~begun receiving their pensions benefits. A change in the~~  
3044 ~~pension rate means any modification to the definition of basic~~  
3045 ~~average salary or other change to the formula for determining~~  
3046 ~~the amount of a pension benefit.~~

3047 ~~(e)~~ (b) Any amendment which affects the rights, duties,  
3048 or responsibilities of the trustee may only be made with the  
3049 trustee's written consent. Any such amendment shall become  
3050 effective as provided therein upon its execution. The trustee  
3051 shall not be required to execute any such amendment unless the  
3052 amendment affects the duties of the trustee hereunder.

3053 ~~(d)~~ (c) Except as otherwise specifically provided for  
3054 herein, no amendment to the plan shall be effective if it  
3055 authorizes or permits any part of the trust fund, other than  
3056 such part as is required to pay taxes and administration  
3057 expenses, to be used for or diverted to any purpose other than  
3058 for the exclusive benefit of the members or their designated  
3059 beneficiaries or estates."

3060 "§45-37-123.191

3061 The plan shall not be deemed to constitute a contract  
3062 of employment between the county and any member or to be a  
3063 consideration or an inducement for the employment of any  
3064 member or employee. Nothing contained in the plan shall be  
3065 deemed to give any member or employee the right to be retained  
3066 in the service of the county or to interfere with the right of  
3067 the county to discharge any member or employee at any time



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3068 regardless of the effect which such discharge shall have upon  
3069 the employee as a member of this plan. ~~No provisions herein~~  
3070 ~~shall be construed to bestow upon any member or any other~~  
3071 ~~person any vested right to benefits, return of employee~~  
3072 ~~contributions, or any other valuable interest hereunder. No~~  
3073 ~~implied contract for benefits shall be held to arise~~  
3074 ~~hereunder, either before or after retirement.~~ A member's right  
3075 to a pension benefit shall vest and become nonforfeitable  
3076 pursuant to Section 45-37-123.100(c)(2)(b). Membership in the  
3077 system is contractual in nature and vested pension benefits  
3078 shall not be forfeited, diminished, or impaired."

3079 "§45-37-123.194

3080 (a) Except as provided below and otherwise specifically  
3081 required by law, it shall be impossible by operation of the  
3082 plan or of the trust agreement, by termination of either, by  
3083 power of revocation or amendment, by the happening of any  
3084 contingency, by collateral arrangement, or by any other means,  
3085 for any part of the corpus or income of any trust fund  
3086 maintained pursuant to the plan or any funds contributed  
3087 thereto to be used for, or diverted to, purposes other than  
3088 the exclusive benefit of members, former members, or their  
3089 designated beneficiaries; and no funds of the system, whether  
3090 in cash, securities, or otherwise, nor any income or yield  
3091 thereof, shall be subject to or exacted on account of, any  
3092 tax; and no retirement or disability allowance or right to  
3093 return of contributions, or other benefits payable as set  
3094 forth in the plan, shall be assignable or be subject to  
3095 execution, levy, attachment, garnishment, or other legal





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3096 process. Accordingly, the plan shall not recognize any  
3097 domestic relations order attempting to provide a member's  
3098 benefits, or any portion thereof, to an alternate payee.

3099 (b) In the event that the county shall make an  
3100 excessive contribution under a mistake of fact, the pension  
3101 board, or its agent, may demand repayment of such excessive  
3102 contribution, and the trustees shall return such amount,  
3103 adjusted for any income or loss in value so long as such  
3104 amount is returned within one year of the date of the mistaken  
3105 contribution. Notwithstanding the immediately preceding  
3106 sentence, any return shall be limited to an amount that, in  
3107 the judgment of the pension board, would not cause the system  
3108 to become actuarially unsound.

3109 (c) In the event that the plan makes an overpayment to  
3110 a member ~~or~~, designated beneficiary, or other beneficiary for  
3111 any reason, such as, miscalculation of a pension benefit or  
3112 payment prior to the time that the member ~~or~~, designated  
3113 beneficiary, or other beneficiary was entitled to payment, the  
3114 pension board may elect to offset future pension ~~payments~~  
3115 benefits until ~~such the~~ overpayment has been recouped by the  
3116 trust fund to the extent allowed by law.

3117 ~~(d) Subject to applicable law, no person shall be~~  
3118 ~~entitled to receive a deferred pension if his or her~~  
3119 ~~separation from the service from the county is due to his or~~  
3120 ~~her misappropriation of funds or property of the county, or to~~  
3121 ~~moral delinquency on his or her part.~~

3122 ~~(e) Subject to applicable law, if the board finds that~~  
3123 ~~a member's service is terminated by resignation or discharge,~~



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3124 ~~or otherwise, as a consequence of such member's dishonesty in~~  
3125 ~~handling the monies or property of the county or any~~  
3126 ~~department thereof, the member shall not be entitled to any~~  
3127 ~~retirement or disability benefit, but he or she shall upon~~  
3128 ~~application therefor be paid a refund of the full amount of~~  
3129 ~~his or her employee contributions, less any benefits~~  
3130 ~~previously paid to him or her.~~

3131        ~~(f)~~ (d) Subject to applicable law, a member's or  
3132 designated beneficiary's benefit may be offset for obligations  
3133 to the county, the pension board, or the trust fund."

3134        "§45-37-123.195

3135        Any payment to any member, the member's legal  
3136 representative, designated beneficiary, or to any guardian or  
3137 committee appointed for such member or designated beneficiary  
3138 in accordance with the plan, to the extent thereof, shall be  
3139 in full satisfaction of all claims hereunder against the  
3140 trustee, the county, and the pension board each of whom may  
3141 require such member, legal representative, designated  
3142 beneficiary, guardian, or committee, as a condition precedent  
3143 to such payment, to execute a receipt and release thereof or  
3144 an indemnification agreement or both in such form as shall be  
3145 determined by the pension board."

3146        Section 2. Sections 45-37-123.31 and 45-37-123.110 are  
3147 added to the Code of Alabama 1975, to read as follows:

3148        §45-37-123.31

3149        The system, the pension board and each of its  
3150 individual members, and employees of the system, when acting  
3151 within the scope of its or their official capacity, shall be



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3152 immune from civil liability and not subject to legal claims  
3153 for damages by any individual, member, designated beneficiary  
3154 or other beneficiary, or entity, directly or by way of  
3155 contribution, for any decision, act, or omission resulting in  
3156 damage or injury unless the decision, act, or omission was  
3157 caused by willful and wanton conduct, grossly negligent  
3158 conduct, gross malfeasance, or gross misfeasance. For purposes  
3159 of this section, "official capacity" means any decision, act,  
3160 or omission taken by the pension board or its individual  
3161 members to further the purpose for which the system is  
3162 established.

3163 §45-37-123.110

3164 (a) To the extent allowed by law, in the event that all  
3165 or any portion of the benefit payable to a missing participant  
3166 or missing beneficiary shall remain unpaid either: (1) with  
3167 respect to a nonvested member, for more than five years  
3168 following the member's separation from service of the county;  
3169 or (2) with respect to a vested member, for more than five  
3170 years following the applicable date, as may be set forth in  
3171 any administrative policies established pursuant to Section  
3172 45-37-123.22(b)(5), the amount of the missing participant's or  
3173 missing beneficiary's benefit (as applicable) or employee  
3174 contributions, or both, in the sole discretion of the pension  
3175 board, may be forfeited, subject to reinstatement as provided  
3176 in subsection (b). During any period of forfeiture, the  
3177 missing participant or missing beneficiary shall not be  
3178 treated as a member under the plan. Prior to the forfeiture of  
3179 a missing participant's or missing beneficiary's benefit or



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3180 employee contributions, or both, the system shall attempt to  
3181 locate the missing participant or missing beneficiary through  
3182 reasonable search efforts, which efforts shall be determined  
3183 by the pension board in its sole discretion.

3184 (b) In the event a missing participant or missing  
3185 beneficiary is located subsequent to the forfeiture of the  
3186 missing participant's or missing beneficiary's benefit or  
3187 employee contributions, or both, pursuant to subsection (a),  
3188 the benefit or employee contributions, or both, shall be  
3189 restored by the pension board without interest; provided,  
3190 however, that a benefit or employee contribution lost by  
3191 reason of escheat under applicable state law is not treated as  
3192 a forfeiture for purposes of this section nor as an  
3193 impermissible forfeiture under the Internal Revenue Code. In  
3194 the event that a nonvested missing participant dies subsequent  
3195 to a forfeiture of his or her employee contributions pursuant  
3196 to subsection (a), but before being located pursuant to this  
3197 subsection, the participant's refund shall be permanently  
3198 forfeited and there shall be no designated beneficiary or  
3199 other beneficiary for the refund. In no event shall any  
3200 forfeiture under the plan result in an increase in the benefit  
3201 to be paid to any member.

3202 Section 3. Sections 45-37-123.52 and 45-37-123.53, Code  
3203 of Alabama 1975, providing for termination of eligibility and  
3204 the conversion of unpaid membership time to paid membership  
3205 time, are repealed.

3206 Section 4. This act shall become effective on June 1,  
3207 2024.



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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 07-Mar-24, as amended.

John Treadwell  
Clerk

Senate

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**25-Apr-24**

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Passed