

1 SB74
2 214921-1
3 By Senator Barfoot
4 RFD: Finance and Taxation General Fund
5 First Read: 13-JAN-22

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

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 36-27-1, 36-27-16, as amended by Act 2021-270, and 41-27-7, Code of Alabama 1975, relating to retirement benefits for employees who are members of the

1 Employees' Retirement System; to reopen the State Police Tier
2 II Plan to any employee of the Alabama State Law Enforcement
3 Agency who is certified by the Alabama Peace Officers'
4 Standards and Training Commission and performs law enforcement
5 duties; to modify the Tier II benefits received by all State
6 Police Tier II members; and to clarify that employees of the
7 Alabama State Law Enforcement Agency are state policemen for
8 retirement purposes.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 36-27-1, 36-27-16, as amended
11 by Act 2021-270, and 41-27-7 of the Code of Alabama 1975, are
12 amended to read as follows:

13 "§36-27-1.

14 "When used in this article, the following terms
15 shall have the following meanings, respectively, unless the
16 context clearly indicates otherwise:

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

19 "(2) EMPLOYEE. Any regular employee of the State of
20 Alabama whose salary is paid by state warrant by the state,
21 except a member of the Legislature of the state, a person who
22 is covered or eligible to be covered under the Teachers'
23 Retirement System of Alabama or any other retirement system to
24 which contributions are made by the state, an elective
25 official of the state government, and a temporary employee or
26 person engaged under retainer or special agreement. In all
27 cases of doubt the Board of Control shall determine who is an

1 employee within the meaning of this article. The term shall
2 include any regular employee of the Alabama state hospitals
3 and Partlow State School and Hospital and the Alabama State
4 Port Authority, however paid.

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

9 "(4) MEMBER. Any employee included in the membership
10 of the system as provided in Section 36-27-4.

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

13 "(6) MEDICAL BOARD. The board of physicians provided
14 for in Section 36-27-23.

15 "(7) SERVICE. Service as an employee paid for by an
16 employer.

17 "(8) PRIOR SERVICE. Service rendered prior to the
18 date of establishment of the retirement system for which
19 credit is allowable under Section 36-27-11.

20 "(9) MEMBERSHIP SERVICE. Service as an employee
21 rendered while a member of the retirement system and on
22 account of which contributions are made.

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

25 "(11) BENEFICIARY. Any person in receipt of a
26 pension, an annuity, a retirement allowance or other benefit
27 as provided by this article.

1 "(12) REGULAR INTEREST. Interest compounded annually
2 at the rate determined by the Board of Control in accordance
3 with subsection (f) of Section 36-27-25.

4 "(13) ACCUMULATED CONTRIBUTIONS. The sum of all the
5 amounts deducted from the compensation of a member credited to
6 his or her individual account in the Annuity Savings Fund,
7 together with regular interest thereon, as provided in Section
8 36-27-24.

9 "(14) EARNABLE COMPENSATION. The full rate of
10 compensation that would be payable to an employee if he or she
11 worked the full normal work-time. In cases where compensation
12 includes maintenance, the Board of Control shall fix the value
13 of that part of the compensation not paid in money. Earnable
14 compensation shall not exceed the limitations imposed by
15 Section 401(a) (17) of the Internal Revenue Code for public
16 pension funds, except that any employee who was a member of
17 the Employees' Retirement System before the first plan year
18 beginning after December 31, 1995, shall not be subject to the
19 earning limitations set forth in Section 401(a) (17). For Tier
20 I plan members, the term earnable compensation for retirement
21 purposes shall not include subsistence payments that are made
22 to a member and shall include overtime payments that are made
23 to a member; however, earnable compensation shall not exceed
24 120 percent of any members' annual base compensation as
25 certified by the employer. For Tier II plan members, earnable
26 compensation shall include overtime payments that are made to
27 the member but shall not include subsistence payments that are

1 made to the member and shall not exceed one hundred
2 twenty-five percent (125%) of the member's annual base
3 compensation, as certified by the employer.

4 "(15) AVERAGE FINAL COMPENSATION. For any Tier I
5 plan member, the average annual compensation of the member,
6 with respect to which he or she had made contributions
7 pursuant to subsection (b) of Section 36-27-24 during the
8 three years, in his or her last 10 years of creditable service
9 for which the average is highest or during his or her entire
10 period of creditable service if less than three years; except,
11 that for any period prior to November 1, 1959, the
12 compensation used in computing the average shall include
13 compensation in excess of the maximum amount with respect to
14 which members were required to contribute. For any Tier II
15 plan member, the average annual compensation of the member,
16 with respect to which he or she has made contributions
17 pursuant to subsection (b) of Section 36-27-24 during the five
18 years, in his or her last ~~ten~~ 10 years of creditable service
19 for which the average is highest or during his or her entire
20 period of creditable service if less than five years.

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

24 "(17) PENSION. Payments for life derived from money
25 provided by the employer. All pensions shall be payable in
26 equal monthly installments.

1 "(18) RETIREMENT ALLOWANCE. The sum of the "annuity"
2 and the "pension."

3 "(19) RETIREMENT. Withdrawal from active service
4 with a retirement allowance or optional benefit in lieu
5 thereof granted under this article.

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

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

14 "(22) ACTUARIAL EQUIVALENT. A benefit of equal value
15 when computed upon the basis of the mortality tables adopted
16 by the Board of Control and regular interest.

17 "(23) STATE POLICEMAN. An employee in the classified
18 service under the Merit System Act approved by the State
19 Personnel Board to perform the duties of highway patrolman or
20 a beverage control agent or a crime investigator. The term
21 includes any employee ~~hired by~~ of the Alabama State Law
22 Enforcement Agency ~~after January 1, 2015,~~ who is certified by
23 the Alabama Peace Officers' Standards and Training Commission
24 and performs law enforcement duties. ~~Such an employee of the~~
25 ~~Alabama State Law Enforcement Agency shall pay the same~~
26 ~~employee contribution rate as and receive the same benefits as~~
27 ~~Tier II law enforcement officers, as defined by Section~~

1 ~~36-27-59(a)(3)~~. The term shall not include a member employed
2 as a policeman under Section 36-27-6.

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

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

7 "(26) TIER I PLAN MEMBER. Any member of the
8 Retirement System who had service for which he or she received
9 credit in the Employees' Retirement System or in the Teachers'
10 Retirement System prior to January 1, 2013.

11 "(27) TIER II PLAN MEMBER. Any member of the
12 Retirement System who first began eligible employment with an
13 Employees' Retirement System or a Teachers' Retirement System
14 participating employer on or after January 1, 2013, and who
15 had no eligible service in the Employees' Retirement System or
16 the Teachers' Retirement System prior to January 1, 2013.

17 "§36-27-16.

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

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

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

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

1 service shall not be less than 10 years nor more than 25
2 years.

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

20 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

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

1 a state policeman who retires after age 56 but prior to age
2 60, the annuity shall be equal to the annuity that would have
3 been payable upon service retirement at age 60 had the member
4 continued in service to age 60 without change in compensation;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 a state policeman 56 years or older shall include a bonus
2 equal to the years or portion thereof remaining until the
3 member reaches age 60; or

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

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

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

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

18 "g. Anything in this article to the contrary
19 notwithstanding, in the application of the foregoing
20 provisions of this subdivision to a member whose creditable
21 service includes a period of service as a state policeman and
22 a period of service in another employment classification, the
23 benefit rates applicable to a member employed as a state
24 policeman shall apply to all creditable service as a state
25 policeman, and the benefit rates applicable to a member not
26 employed as a state policeman shall apply to all creditable
27 service, but in all other respects the pension under this

1 subdivision shall be determined on the basis of the member's
2 employment classification at the time of his or her withdrawal
3 from service.

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

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

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

1 not less than 30 nor more than 90 days next following the date
2 of filing such application; provided, that the medical board,
3 after a medical examination of such member, shall certify that
4 the member is totally and permanently mentally or physically
5 incapacitated from regular and substantial gainful employment,
6 and that member should be retired.

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

27 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

1 "a. Upon retirement for disability a member shall
2 receive a service retirement allowance based on age and
3 service if he or she is a Tier I plan member and he or she has
4 attained age 60 or if he or she is ~~a Tier II plan member and~~
5 ~~he or she has attained age 62, or if any law or part of any~~
6 ~~law pertaining to retirement under the Employees' Retirement~~
7 ~~System of Alabama provides for service retirement after the~~
8 ~~completion of 25 years of creditable service without a~~
9 ~~reduction in the retirement allowance and the member has~~
10 ~~completed 25 years of creditable service, or, in the case of a~~
11 ~~state policeman, if he or she is a Tier I plan member and he~~
12 ~~or she has attained age 52 or, in the case of a state~~
13 ~~policeman or a correctional officer, firefighter, or law~~
14 ~~enforcement officer as defined in Section 36-27-59 with at~~
15 ~~least ten years of creditable service as a correctional~~
16 ~~officer, firefighter, or law enforcement officer, if he or she~~
17 ~~is a Tier II plan member and he or she has attained age 56~~
18 otherwise eligible to retire; otherwise, he or she shall
19 receive a disability retirement allowance which shall consist
20 of:

21 "1. An annuity which shall be the actuarial
22 equivalent of his or her accumulated contributions at the time
23 of his or her retirement;

24 "2. A pension which shall be equal to the pension
25 that would have been payable under subparagraphs 2 and 3 of
26 paragraph a. of subdivision (2) of subsection (a) of this
27 section upon service retirement at age 65 had the member

1 continued in service to that age without change in
2 compensation.

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

8 "1. Two and one-eightieth percent of the member's
9 average final compensation multiplied by the number of years
10 of creditable service.

11 "2. If he or she became a member before October 1,
12 1965, \$54.00 multiplied by the number of years of his or her
13 creditable service not in excess of 25 years.

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

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

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

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

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

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

1 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
2 ACCOUNT OF DISABILITY. Once each year during the first five
3 years following the retirement of a member on a disability
4 retirement allowance and once every three-year period
5 thereafter, the Board of Control may, and upon his or her
6 application shall, require any disability beneficiary who has
7 not yet attained age 60 if the beneficiary is a Tier I plan
8 member or age 62 if the beneficiary is a Tier II plan member
9 to undergo a medical examination, such examination to be made
10 at the place of residence of such beneficiary or other place
11 mutually agreed upon by a physician or physicians of or
12 designated by the medical board. Should any disability
13 beneficiary who has not yet attained age 60, if the
14 beneficiary is a Tier I plan member or age 62, if the
15 beneficiary is a Tier II plan member, refuse to submit to such
16 medical examination, his or her allowance may be discontinued
17 until his or her withdrawal of such refusal, and, should his
18 or her refusal continue for one year, all his or her rights in
19 and to his or her pension may be revoked by the Board of
20 Control; provided, that these requirements relative to the
21 medical examination shall not apply in the case of a state
22 policeman retired for disability and who has attained age 52
23 ~~if he or she is a Tier I plan member~~ or in the case of a ~~state~~
24 ~~policeman~~ or a correctional officer, firefighter, or law
25 enforcement officer as defined in Section 36-27-59 with at
26 least ~~ten~~ 10 years of creditable service as a correctional
27 officer, firefighter, or law enforcement officer retired for

1 disability who has attained age 56 if he or she is a Tier II
2 plan member. Should the medical board report and certify to
3 the Board of Control that a disability beneficiary who is a
4 Tier I plan member is engaged in or is able to engage in a
5 gainful occupation paying more than the difference between his
6 or her retirement allowance and his or her average final
7 compensation and should the Board of Control concur in such
8 report, then the amount of his or her pension shall be reduced
9 to an amount which, together with his or her annuity and the
10 amount earnable by him or her shall equal the amount of his or
11 her average final compensation. Should his or her earning
12 capacity be later changed, the amount of his or her pension
13 may be further modified; provided, that the new pension shall
14 not exceed the amount of the pension originally granted nor an
15 amount which, when added to the amount earnable by the
16 beneficiary, together with this annuity exceeds the amount of
17 his or her average final compensation.

18 "Should the medical board report and certify to the
19 Board of Control that a disability beneficiary who is a Tier
20 II plan member has the capacity to engage in regular and
21 substantial gainful employment, the Board of Control shall
22 discontinue the beneficiary's retirement allowance until the
23 beneficiary is otherwise eligible for service retirement.

24 "(c) Disposition of contributions and allowances
25 upon death, etc., of member.

26 "(1) Should a member cease to be an employee except
27 by death or by retirement under the provisions of this

1 article, the contributions standing to the credit of his or
2 her individual account in the Annuity Savings Fund shall be
3 paid to him or her upon demand and, in addition to such
4 payment, there shall be paid five-tenths of the interest
5 accumulations standing to the credit of his or her individual
6 account if he or she shall have not less than three but less
7 than 16 years of membership service, six-tenths of such
8 interest accumulations if he or she shall have not less than
9 16 but less than 21 years of membership service, seven-tenths
10 of such interest accumulations if he or she shall have not
11 less than 21 but less than 26 years of membership service and
12 eight-tenths of such interest accumulations if he or she shall
13 have not less than 26 years of membership service.

14 "(2) In case of the death of a member eligible for
15 service retirement pursuant to subsection (a) of this section,
16 an allowance shall be paid to the surviving spouse, or to such
17 other person who the member shall have designated, in an
18 amount that would have been payable if the member had retired
19 immediately prior to his or her death and had elected Option
20 3, as set forth in subsection (d) of this section or,
21 alternatively, if the surviving spouse or other designee
22 desires, he or she may choose to receive, in lieu of the
23 allowance provided under Option 3, the accumulated
24 contributions of the member plus an amount equal to the
25 accumulated contributions of the member not to exceed
26 \$5,000.00 or the accumulated contributions of the member plus

1 the benefit provided by Section 36-27B-3 if a benefit is
2 payable under such section;

3 "(3) In case of the death of a Tier I plan member
4 not eligible for service retirement, after completion of 25
5 years of creditable service, an allowance shall be paid to the
6 surviving spouse, or to such other person who the member shall
7 have designated, in an amount that would have been payable if
8 the member had retired for disability immediately prior to his
9 or her death and had elected Option 3 as set forth in
10 subsection (d) of this section or, alternatively, if the
11 surviving spouse or other designee desires, he or she may
12 choose to receive, in lieu of the allowance provided under
13 Option 3, the accumulated contributions of the member plus an
14 amount equal to the accumulated contributions of the member
15 not to exceed \$5,000.00 or the accumulated contributions of
16 the member plus the benefit provided by Section 36-27B-3 if a
17 benefit is payable under such section. For purposes of this
18 subsection only, hazardous duty time, as set forth in
19 subdivision (b) (1) of Section 36-27-59, may be used in
20 calculating the requisite years of service for firefighters,
21 law enforcement officers, and correctional officers even if
22 the member has not otherwise attained 25 years of creditable
23 service;

24 "(4) Upon the death of a member on account of whom
25 no survivor allowance is payable under subdivisions (2) or (3)
26 of this subsection, the accumulated contributions of the
27 member plus an amount equal to the accumulated contributions

1 not to exceed \$5,000 or the accumulated contributions of the
2 member plus the benefit provided by Section 36-27B-3 if a
3 benefit is payable under such section shall be paid to his or
4 her estate or to such person as he or she shall have nominated
5 by written designation duly executed and filed with the Board
6 of Control.

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

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

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

26 "(3) OPTION 3. Upon his or her death, one half of
27 his or her reduced allowance shall be continued throughout the

1 life of and paid to the person as he or she shall nominate by
2 written designation duly acknowledged and filed with the Board
3 of Control at the time of his or her retirement; ~~or~~

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

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

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

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

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

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

9 Notwithstanding, any member who retired prior to October 1,
10 1975, and who chose either Option 2 or Option 3 may elect to
11 receive a reduced allowance and to stipulate that the
12 actuarial equivalent of the increase in his or her retirement
13 allowance, which became effective on that date, be ascribed to
14 his or her designated beneficiary; provided, that such member
15 shall clearly express this intention by filing a written
16 application to the effect with the Secretary-Treasurer of the
17 Employees' Retirement System of Alabama prior to October 1,
18 1976.

19 "(2) Any person who, prior to October 1, 1963, was
20 in receipt of a benefit pursuant to Act No. 376, approved
21 November 6, 1959, but was not a member of the system at the
22 time of retirement shall not be entitled to receive an annual
23 retirement allowance from the system, effective October 1,
24 1971, as follows:

25 "a. If such person was retired on or before January
26 1, 1956, an amount equal to \$79.20 multiplied by the number of

1 years of his or her creditable service not in excess of 30
2 years.

3 "b. If such person was retired after January 1,
4 1956, an amount equal to \$72.00 multiplied by the number of
5 years of his or her creditable service not in excess of 25
6 years.

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

22 "(g) Notwithstanding any other provisions of this
23 section to the contrary, when a designated beneficiary for a
24 member predeceases the member who is receiving a monthly
25 benefit allowance provided under Option 2, 3, or 4, the member
26 may designate a replacement beneficiary for the deceased
27 beneficiary to become effective two years after the date of

1 designation of the replacement beneficiary and an actuarial
2 adjustment in the monthly benefit allowance of the member to
3 cover any cost associated with designating a replacement
4 beneficiary shall be reflected thereafter in the monthly
5 benefit allowance received by the member, commencing with the
6 first benefit allowance check received by the member following
7 the date of designation of the replacement beneficiary.

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

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

25 "§41-27-7.

26 "(a) For the purposes of this article, the term
27 "legacy agency" means an existing agency, department, or

1 division that is being reorganized or abolished under this
2 article.

3 "(b) Unless otherwise provided in this article, all
4 positions created by this article shall be in the classified
5 service of the state Merit System.

6 "(c) All persons employed on January 1, 2015, with a
7 legacy agency and transferred to the Alabama State Law
8 Enforcement Agency, Department of Public Safety, or State
9 Bureau of Investigations shall maintain his or her
10 classification and benefits under the legacy agency. A person
11 employed by a legacy agency on January 1, 2015, shall not
12 receive a decrease in salary, benefits, or seniority or
13 otherwise receive a decrease in classification as a result of
14 the transfer to the Alabama State Law Enforcement Agency,
15 Department of Public Safety, or State Bureau of
16 Investigations.

17 "(d) Any future change in classification shall not
18 result in any change in benefits an employee previously had at
19 a legacy agency.

20 "(e) An employee of a legacy agency transferred to
21 the Alabama State Law Enforcement Agency, Department of Public
22 Safety, or State Bureau of Investigations under this article
23 shall remain in his or her current classification unless
24 appointed to the appropriate classification within the newly
25 created department according to state Merit System procedures.

26 "(f) Any employee hired ~~in~~ or transferred into the
27 Alabama State Law Enforcement Agency after January 1, 2015,

1 who is certified by the Alabama Peace Officers' Standards and
2 Training Commission and ~~performs law enforcement duties shall~~
3 ~~be considered a law enforcement officer, as defined by Section~~
4 ~~36-27-59(a)(3), but~~ is a state policeman is not eligible for
5 the benefits specified in Section 36-26-35(d)."

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