

1 HB155
2 216493-3
3 By Representative Ellis
4 RFD: Ways and Means General Fund
5 First Read: 18-JAN-22

1
2 ENROLLED, An Act,

3 Relating to the Retirement Systems of Alabama; to
4 amend Sections 12-17-277.6, 12-18-156, 16-25-14, and 36-27-16
5 of the Code of Alabama 1975, as amended by Act 2021-270, 2021
6 Regular Session; to change the option available to a surviving
7 spouse of a retirement eligible member of the District
8 Attorneys' Plan, the Judges' and Clerks' Plan, the Teachers'
9 Retirement System of Alabama, and the Employees' Retirement
10 System of Alabama that has died in active service; and to
11 provide for a retroactive effective date.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 12-17-277.6, 12-18-156,
14 16-25-14, and 36-27-16 of the Code of Alabama 1975, as amended
15 by Act 2021-270, 2021 Regular Session, are amended to read as
16 follows:

17 "§12-17-227.6.

18 "(a) Should a member cease to be a district attorney
19 except by death or by retirement under the provisions of this
20 division, the contributions standing to the credit of his or
21 her individual account in the fund shall be paid to him or her
22 upon demand and, in addition to ~~such~~ the payment, there shall
23 be paid five-tenths of the interest accumulations standing to
24 the credit of his or her individual account if he or she shall
25 have not less than three but less than 16 years of membership

1 service, six-tenths of ~~such~~ the interest accumulations if he
2 or she shall have not less than 16 but less than 21 years of
3 membership service, seven-tenths of ~~such~~ the interest
4 accumulations if he or she shall have not less than 21 but
5 less than 26 years of membership service, and eight-tenths of
6 ~~such~~ the interest accumulations if he or she shall have not
7 less than 26 years of membership service.

8 " (b) In case of the death of a member eligible for
9 service retirement pursuant to Section 12-17-227.4, an
10 allowance shall be paid to the surviving spouse, if designated
11 as the sole beneficiary, in an amount that would have been
12 payable if the member had retired immediately prior to his or
13 her death and had elected Option 2, as set forth in subsection
14 (d), or to such other person who the member shall have
15 designated, in an amount that would have been payable if the
16 member had retired immediately prior to his or her death and
17 had elected Option 3, as set forth in subsection (d) ~~or,~~
18 ~~alternatively,~~ Alternatively, if the surviving spouse or
19 other designee desires, he or she may choose to receive, in
20 lieu of the allowance provided under Option 2 or Option 3, the
21 accumulated contributions of the member plus an amount equal
22 to the accumulated contributions of the member not to exceed
23 ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated
24 contributions of the member plus the benefit provided by

1 Section 36-27B-3 if a benefit is payable under ~~such~~ that
2 section.

3 "(c) Upon the death of a member on account of whom
4 no survivor allowance is payable under subsection (b), the
5 accumulated contributions of the member plus an amount equal
6 to the accumulated contributions not to exceed ~~\$5,000~~ five
7 thousand dollars (\$5,000) or the accumulated contributions of
8 the member plus the benefit provided by Section 36-27B-3 if a
9 benefit is payable under ~~such~~ that section shall be paid to
10 his or her estate or to such person as he or she shall have
11 nominated by written designation duly executed and filed with
12 the Board of Control.

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

20 "(1) OPTION 1. If he or she dies before he or she
21 has received in annuity payments the present value of his or
22 her annuity as it was at the time of his or her retirement,
23 the balance shall be paid to his or her legal representatives
24 or to such person as he or she shall nominate by written

1 designation duly acknowledged and filed with the Board of
 2 Control;

3 "(2) OPTION 2. Upon his or her death, his or her
 4 reduced retirement allowance shall be continued throughout the
 5 life of and paid to such person as he or she shall nominate by
 6 written designation duly acknowledged and filed with the Board
 7 of Control at the time of his or her retirement;

8 "(3) OPTION 3. Upon his or her death, one half of
 9 his or her reduced allowance shall be continued throughout the
 10 life of and paid to such person as he or she shall nominate by
 11 written designation duly acknowledged and filed with the Board
 12 of Control at the time of his or her retirement; or

13 "(4) OPTION 4. Some other benefit or benefits shall
 14 be paid either to the member or to such person or persons as
 15 he or she shall nominate; provided, that ~~such~~ those other
 16 benefits, together with the reduced retirement allowance,
 17 shall be certified by the actuary to be of equivalent
 18 actuarial value to his or her retirement allowance and shall
 19 be approved by the Board of Control.

20 "(e) Notwithstanding any other provisions of this
 21 section to the contrary, when a designated beneficiary for a
 22 member predeceases the member who is receiving a monthly
 23 benefit allowance provided under Option 2, 3, or 4, the member
 24 may designate a replacement beneficiary for the deceased
 25 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 "(f) 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 "§12-18-156.

22 "(a) Should a member cease to be a judge or clerk
23 except by death or by retirement under the provisions of this
24 article, the contributions standing to the credit of his or
25 her individual account in the fund shall be paid to him or her

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

12 "(b) In case of the death of a member eligible for
13 service retirement pursuant to Section 12-18-154, an allowance
14 shall be paid to the surviving spouse, if designated as the
15 sole beneficiary, in an amount that would have been payable if
16 the member had retired immediately prior to his or her death
17 and had elected Option 2, as set forth in subsection (d), or
18 to such other person who the member shall have designated, in
19 an amount that would have been payable if the member had
20 retired immediately prior to his or her death and had elected
21 Option 3, as set forth in subsection (d) ~~or, alternatively.~~
22 Alternatively, if the surviving spouse or other designee
23 desires, he or she may choose to receive, in lieu of the
24 allowance provided under Option 2 or Option 3, the accumulated
25 contributions of the member plus an amount equal to the

1 accumulated contributions of the member not to exceed
2 ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated
3 contributions of the member plus the benefit provided by
4 Section 36-27B-3 if a benefit is payable under ~~such~~ that
5 section.

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

16 "(d) Optional allowances. With the provision that
17 the election of an option shall be effective on the effective
18 date of retirement, any member may elect prior to retirement
19 to receive, in lieu of his or her retirement allowance payable
20 throughout life, the actuarial equivalent, at that time, of
21 his or her retirement allowance in a reduced retirement
22 allowance payable throughout life with the provisions that:

23 "(1) OPTION 1. If he or she dies before he or she
24 has received in annuity payments the present value of his or
25 her annuity as it was at the time of his or her retirement,

1 the balance shall be paid to his or her legal representatives
2 or to the person as he or she shall nominate by written
3 designation duly acknowledged and filed with the Board of
4 Control;

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

10 "(3) OPTION 3. Upon his or her death, one half of
11 his or her reduced allowance shall be continued throughout the
12 life of and paid to the person as he or she shall nominate by
13 written designation duly acknowledged and filed with the Board
14 of Control at the time of his or her retirement; or

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

22 "(5) Where the person designated by the member under
23 this subsection to receive a continued retirement allowance is
24 a beneficiary of a special needs trust established under Title
25 42, United States Code, Section 1396p(d)(4)(A) or (C), as

1 amended, the retirement allowance payable to the person may be
2 paid by the retirement system to the special needs trust upon
3 written direction to the retirement system by the member or,
4 after the member is deceased, by the designated person or by
5 his or her legal representative if the designated person is a
6 minor or is incapacitated.

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

20 "(f) Notwithstanding any provision of this section
21 to the contrary, if a retired member who is receiving a
22 monthly benefit allowance provided under Option 2, 3, or 4
23 divorces his or her designated beneficiary, the member may
24 designate a replacement beneficiary for the beneficiary to
25 become effective two years after the date of designation of

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

8 "§16-25-14.

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

24 "(2) Any Tier I plan member who has attained age 60
25 and any Tier II plan member who has attained age 62, or in the

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

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

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

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

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

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

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

23 "(3) If he or she has a prior service certificate in
24 full force and effect, an additional pension which shall be
25 equal to the annuity which would have been provided at age of

1 retirement, but not to exceed an annuity allowable at age 65
2 by twice the contributions which he or she would have made
3 during the period of prior service with which he or she is
4 credited had the system been in operation and had he or she
5 contributed thereunder. In lieu of a determination of the
6 actual compensation of the members that was received during
7 ~~such~~ that prior service, the Board of Control may use for the
8 purposes of this chapter the compensation rates which, if they
9 had progressed with the rates of salary increase shown in the
10 tables as prescribed in subsection (o) of Section 16-25-19,
11 would have resulted in the same average salary of the member
12 for the five years immediately preceding the date of
13 establishment as the records show the member actually
14 received.

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

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

23 "(2) If he or she became a member before October 1,
24 1971, ~~\$72~~ seventy-two dollars (\$72) multiplied by the number

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

3 "Notwithstanding, a member who retired prior to
4 October 1, 1971, under service retirement shall receive ~~\$120~~
5 one hundred twenty dollars (\$120) multiplied by the number of
6 years of his or her creditable service not in excess of 25
7 years.

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

19 "(e) Upon the application of a Tier I plan member in
20 service or of his or her employer, any member who has had 10
21 or more years of creditable service may be retired by the
22 Board of Control on a disability retirement allowance not less
23 than 30 nor more than 90 days next following the date of
24 filing ~~such an~~ the application; provided, that the medical
25 board, after a medical examination of ~~such~~ the member, shall

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

14 "(f) Upon retirement for disability, a Tier I plan
15 member shall receive a service retirement allowance if he or
16 she has attained age 60 or if any law or part of any law
17 pertaining to retirement under the Teachers' Retirement System
18 of Alabama provides for service retirement after the
19 completion of 25 years of creditable service and the member
20 has completed 25 years of creditable service; otherwise, he or
21 she shall receive a disability retirement allowance which
22 shall consist of:

23 "(1) An annuity which shall be the actuarial
24 equivalent of his or her accumulated contributions at the time
25 of retirement; and

1 "(2) A pension which shall be equal to the pension
2 that would have been payable under subdivisions (2) and (3) of
3 subsection (b) of this section upon service retirement at age
4 60 had the member continued in service to that age without
5 change in compensation.

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

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

12 "b. If he or she became a member before October 1,
13 1971, ~~\$54~~ fifty-four dollars (\$54) multiplied by the number of
14 years of his or her creditable service not in excess of 25
15 years.

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

20 "(g) Upon retirement for disability, a Tier II plan
21 member shall receive a service retirement allowance if the
22 member has attained age 62, or in the case of a Tier II plan
23 member who is a correctional officer, firefighter, or law
24 enforcement officer as defined in Section 36-27-59, if the
25 member has attained age 56 with at least ~~ten~~ 10 years of

1 creditable service as a correctional officer, firefighter, or
2 law enforcement officer, otherwise, the member shall receive a
3 disability retirement allowance which shall be equal to one
4 and sixty-five hundredths percent (1.65%) of the member's
5 average final compensation multiplied by the number of years
6 of creditable service.

7 "(h) (1) Once each year during the first five years
8 following the retirement of a member on a disability
9 retirement allowance and once in every three-year period
10 thereafter, the Board of Control may and upon his or her
11 application shall require any disability beneficiary who has
12 not yet attained age 60 for a Tier I plan member or age 62 for
13 a Tier II plan member to undergo a medical examination, ~~such~~
14 the examination to be made at the place of residence of ~~such~~
15 the beneficiary or other place mutually agreed upon by a
16 physician of or designated by the medical board. Should any
17 disability beneficiary who has not yet attained age 60 for a
18 Tier I plan member or age 62 for a Tier II plan member refuse
19 to submit to ~~such~~ the medical examination, his or her pension
20 may be discontinued until his or her withdrawal of ~~such~~ the
21 refusal, and should his or her refusal continue for one year,
22 all his or her rights in and to his or her pension may be
23 revoked by the Board of Control; provided, that these
24 requirements relative to the medical examination shall not
25 apply in the case of a Tier II plan member who is a

1 correctional officer, firefighter, or law enforcement officer
2 as defined in Section 36-27-59 retired for disability and who
3 has attained age 56 with at least ~~ten~~ 10 years of creditable
4 service as a correctional officer, firefighter, or law
5 enforcement officer.

6 "(2) Should the medical board report and certify to
7 the Board of Control that a disability beneficiary who is a
8 Tier I plan member is engaged in or is able to engage in a
9 gainful occupation paying more than the difference between his
10 or her retirement allowance and his average final compensation
11 and should the Board of Control concur in ~~such~~ the report,
12 then the amount of his or her pension shall be reduced to an
13 amount which, together with his or her annuity and the amount
14 earnable by him or her, shall equal the amount of his or her
15 average final compensation. Should his or her earning capacity
16 be later changed, the amount of his or her pension may be
17 further modified; provided, that the new pension shall not
18 exceed the amount of the pension originally granted nor an
19 amount which, when added to the amount earnable by the
20 beneficiary together with his or her annuity, equals the
21 amount of his or her average final compensation.

22 "(3) Should the medical board report and certify to
23 the Board of Control that a disability beneficiary who is a
24 Tier II plan member has the capacity to engage in regular and
25 substantial gainful employment, the Board of Control shall

1 discontinue the beneficiary's retirement allowance until the
2 beneficiary is otherwise eligible for service retirement.

3 "(i) (1) Should a member cease to be a teacher,
4 except by death or by retirement under the provisions of this
5 chapter, the contributions standing to the credit of his or
6 her individual account in the Annuity Savings Fund shall be
7 paid to him or her upon demand, and in addition to ~~such~~ the
8 payment there shall be paid five-tenths of the interest
9 accumulations standing to the credit of his or her individual
10 account if he or she shall have not less than three but less
11 than 16 years of membership service, six-tenths of ~~such~~ the
12 interest accumulations if he or she shall have not less than
13 16 but less than 21 years of membership service, seven-tenths
14 of ~~such~~ the interest accumulations if he or she shall have not
15 less than 21 but less than 26 years of membership service, and
16 eight-tenths of ~~such~~ the interest accumulations if he or she
17 shall have not less than 26 years of membership service.

18 "(2) In case of the death of a member eligible for
19 service retirement pursuant to subsection (a) of this section,
20 an allowance shall be paid to the surviving spouse, if
21 designated as the sole beneficiary, in an amount that would
22 have been payable if the member had retired immediately prior
23 to his or her death and had elected Option 2, as set forth in
24 subsection (j), or to such other person who the member shall
25 have designated, in an amount that would have been payable if

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

17 "(3) Upon the death of a member on account of whom
18 no survivor allowance is payable under subdivision (2) of this
19 subsection, the accumulated contributions of the member plus
20 an amount equal to the accumulated contributions not to exceed
21 ~~\$5,000~~ five thousand dollars (\$5,000) or the accumulated
22 contributions of the member plus the benefit provided by
23 Section 36-27B-3 if a benefit is payable under ~~such~~ that
24 section shall be paid to his or her estate or to such person

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

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

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

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

22 "(3) OPTION 3. Upon his or her death, one half of
23 his or her reduced retirement allowance shall be continued
24 throughout the life of and paid to the person as he or she
25 shall nominate by written designation duly acknowledged and

1 filed with the Board of Control at the time of his or her
2 retirement; or

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

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

19 "(k) Should any beneficiary be restored to active
20 service, his or her retirement allowance shall be suspended
21 until he or she again withdraws from service and, he or she
22 shall not again become a member, nor shall he or she make
23 contributions; except, that should ~~such~~ the beneficiary who
24 has been restored to active service continue in service for a
25 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~~ the
5 beneficiary whose retirement allowance has been suspended
6 shall repay to the system all ~~moneys~~ monies received by him or
7 her as benefits during any period subsequent to the date of
8 his or her reentry into active service; provided further, that
9 he or she shall make a contribution equal to the amount he or
10 she would have contributed had he or she been a member during
11 the period of his or her restoration to active service on a
12 suspended allowance basis, together with the interest which
13 would have been credited to the contributions on account of
14 ~~such~~ the period of restoration up to the date ~~such~~ the
15 contribution is made.

16 "(1) (1) All retirement allowance payments due on or
17 after October 1, 1975, to members who retired prior to October
18 1, 1975, shall be redetermined as if the provisions of
19 subsections (b) and (e) of this section which became effective
20 on said date were in effect at the time the member retired;
21 provided, that the annual retirement allowance of any member
22 who retired on or before January 1, 1956, shall be not less
23 than ~~\$132~~ one hundred thirty-two dollars (\$132) 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 or ~~\$99~~

1 ninety-nine dollars (\$99) multiplied by the number of years of
2 creditable service not in excess of 30 years in the case of
3 disability retirements. Any increase provided in the
4 retirement allowance payment under this subsection for a
5 member who retired under the provisions of any optional
6 benefit elected pursuant to subsection (j) of this section
7 shall accrue only to the retired member, and no person
8 designated to receive any payments after the death of a
9 retired member under the provisions of any ~~such~~ optional
10 benefit shall receive any increase in ~~such~~ payments under this
11 subsection.

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

21 "(3) Prior to October 31, 1975, any beneficiary may
22 elect to leave on deposit with the system all or a specified
23 part of any increase in his or her monthly retirement
24 allowance payments arising in accordance with subdivision (1)
25 or (2) of this subsection. The portion of each monthly payment

1 left in the system in accordance with ~~such~~ the election shall
2 be credited, together with regular interest thereon, to the
3 individual account of ~~such~~ the beneficiary. Upon the death of
4 ~~such~~ the beneficiary, the total amount standing to his or her
5 credit, including regular interest to the date of death, shall
6 be paid in a lump sum to his or her legal representative or to
7 ~~such~~ the person as he or she shall have nominated by written
8 designation duly acknowledged and filed with the Board of
9 Control.

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

23 "(n) Notwithstanding any provision of this section
24 to the contrary, if a retired member who is receiving a
25 monthly benefit allowance provided under Option 2, 3, or 4

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

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

15 "§36-27-16.

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

18 a. Any Tier I plan member who withdraws from service
19 upon or after attainment of age 60 and any Tier II plan member
20 who withdraws from service upon or after attainment of age 62
21 may retire upon written application to the Board of Control
22 setting forth at what time, not less than 30 days nor more
23 than 90 days subsequent to the execution and filing thereof,
24 he or she desires to be retired; provided, that any such
25 member who became a member on or after October 1, 1963, shall

1 have completed 10 or more years of creditable service;
2 provided further, that a Tier I plan member employed as a
3 state policeman shall be eligible to file application for
4 service retirement upon attaining age 52 and a Tier II plan
5 member employed as a state policeman or employed as a
6 correctional officer, firefighter, or law enforcement officer
7 as defined in Section 36-27-59 with at least ~~ten~~ 10 years of
8 creditable service as a correctional officer, firefighter, or
9 law enforcement officer shall be eligible to file application
10 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 in the case of
14 a state policeman or in the case of a correctional officer,
15 firefighter, or law enforcement officer as defined in Section
16 36-27-59 who has at least ~~ten~~ 10 years of creditable service
17 as a correctional officer, firefighter, or law enforcement
18 officer, and has previously withdrawn from service may retire
19 upon written application to the Board of Control setting forth
20 at what time, not less than 30 days nor more than 90 days
21 subsequent to the execution and filing thereof, he or she
22 desires to be retired; provided, the member shall have at the
23 time of his or her withdrawal from service completed the age
24 and service requirements established by the Board of Control
25 for eligibility for deferred benefits; provided, that ~~such~~ the

1 minimum number of years of creditable service shall not be
2 less than 10 years nor more than 25 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 who withdraws from service after completion
7 of not less than 25 years of creditable service may retire
8 without a reduction in retirement allowance upon written
9 application to the Board of Control of the Employees'
10 Retirement System setting forth the first day of which month,
11 not less than 30 days or more than 90 days subsequent to the
12 execution and filing thereof, he or she desires to be retired,
13 provided that no person whose employer participates in the
14 Employees' Retirement System under Section 36-27-6 shall be
15 entitled to the benefits provided in this paragraph unless
16 ~~such~~ the employer elects to come under the provisions of the
17 paragraph. Any employer making ~~such~~ this election must bear
18 the cost of ~~such~~ the benefit.

19 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

23 "1. An annuity which shall be the actuarial
24 equivalent of his or her accumulated contributions at the time
25 of his or her retirement; except, that in the case of a state

1 policeman who has completed 20 years of creditable service as
2 a state policeman who retires after age 56 but prior to age
3 60, the annuity shall be equal to the annuity that would have
4 been payable upon service retirement at age 60 had the member
5 continued in service to age 60 without change in compensation;

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

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

1 certificate in full force and effect, which shall be equal to
2 the annuity which would have been provided at age 60, but
3 which shall not exceed an annuity allowable at age 60 by twice
4 the contributions which he or she would have made during the
5 period of prior service with which he or she is credited had
6 the system been in operation and had he or she contributed
7 thereunder.

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

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

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

19 "3. An additional pension, if he or she has a prior
20 service certificate in full force and effect, which shall be
21 equal to the annuity which would have been provided at the age
22 of retirement, but which shall not exceed an annuity allowable
23 at the age of retirement plus four years by twice the
24 contributions which he or she would have made during the
25 period of prior service with which he or she is credited had

1 the system been in operation and had he or she contributed
2 thereunder. In lieu of a determination of the actual
3 compensation of a member that was received during ~~such~~ that
4 prior service, the Board of Control may use for the purpose of
5 this article the compensation rate which, if it had progressed
6 with the rates of salary increase shown in the tables as
7 prescribed in subsection (n) of Section 36-27-23, would have
8 resulted in the same average salary of the member for the five
9 years immediately preceding the date of establishment as the
10 records show the member actually received.

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

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

19 "2. If he or she became a member before October 1,
20 1965, ~~\$72.00~~ seventy-two dollars (\$72) multiplied by the
21 number of years of his or her creditable service not in excess
22 of 25 years.

23 "d. The annual service retirement pension payable to
24 a Tier I plan member employed as a state policeman retiring on
25 or after October 1, 1975, shall not be less than an amount

1 which, when added to his or her annuity is equal to the
2 greater of the following two amounts:

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

12 "2. If he or she became a member before October 1,
13 1965, ~~\$86.40~~ eighty-six dollars forty cents (\$86.40)
14 multiplied by the number of years of his or her creditable
15 service not in excess of 25 years; provided, however, that if
16 ~~such~~ the member has completed 20 years of creditable service
17 as a state policeman and has not attained age 60 at the time
18 of retirement, the pension shall be determined as provided in
19 this subparagraph on the basis of the number of years of
20 creditable service which he or she would have had if he or she
21 had remained in service for four years, except that, in the
22 case of those state policemen retiring at age 56 or after, the
23 number of years in determining the pension shall not exceed
24 the number of years of creditable service which he or she
25 would have had if he or she had remained in service to age 60.

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

13 "f. Upon retirement from service, a Tier II plan
14 member who is employed as a state policeman shall receive a
15 service retirement allowance which shall consist of an annuity
16 which shall be the actuarial equivalent of the member's
17 accumulated contributions at the time of retirement and a
18 pension which, when added to the member's annuity, shall be
19 equal to two and three-eighths percent (2.375%) of the
20 member's average final compensation multiplied by the member's
21 number of years of creditable service. Notwithstanding the
22 foregoing, the service retirement allowance shall not exceed
23 eighty percent (80%) of the member's average final
24 compensation.

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

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

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

24 "a. Upon application of a Tier I plan member in
25 service or of his or her employer, any member who has had 10

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

20 "b. Without regard to the number of years of
21 creditable service, a member employed as a state policeman, a
22 municipal police officer or a deputy sheriff, or a member
23 employed as a state, municipal, or county firefighter who is
24 not covered through his or her current employer under the
25 United States Social Security Act, who as a result of his or

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

15 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

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

1 a Tier I plan member and he or she has attained age 52 or, in
2 the case of a state policeman or a correctional officer,
3 firefighter, or law enforcement officer as defined in Section
4 36-27-59 with at least ~~ten~~ 10 years of creditable service as a
5 correctional officer, firefighter, or law enforcement officer,
6 if he or she is a Tier II plan member and he or she has
7 attained age 56; otherwise, he or she shall receive a
8 disability retirement allowance which shall consist of:

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

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

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

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

1 "2. If he or she became a member before October 1,
 2 1965, ~~\$54.00~~ fifty-four dollars (\$54) multiplied by the number
 3 of years of his or her creditable service not in excess of 25
 4 years.

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

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

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

23 "d. The annual disability retirement allowance
 24 payable to a Tier II plan member not employed as a state
 25 policeman shall be equal to one and sixty-five hundredths

1 percent (1.65%) of the member's average final compensation
2 multiplied by the number of years of creditable service.

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

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

21 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
22 ACCOUNT OF DISABILITY. Once each year during the first five
23 years following the retirement of a member on a disability
24 retirement allowance and once every three-year period
25 thereafter, the Board of Control may, and upon his or her

1 application shall, require any disability beneficiary who has
2 not yet attained age 60 if the beneficiary is a Tier I plan
3 member or age 62 if the beneficiary is a Tier II plan member
4 to undergo a medical examination, ~~such~~ the examination to be
5 made at the place of residence of ~~such~~ the beneficiary or
6 other place mutually agreed upon by a physician or physicians
7 of or designated by the medical board. Should any disability
8 beneficiary who has not yet attained age 60 if the beneficiary
9 is a Tier I plan member or age 62 if the beneficiary is a Tier
10 II plan member refuse to submit to ~~such~~ the medical
11 examination, his or her allowance may be discontinued until
12 his or her withdrawal of ~~such~~ the refusal, and, should his or
13 her refusal continue for one year, all his or her rights in
14 and to his or her pension may be revoked by the Board of
15 Control; provided, that these requirements relative to the
16 medical examination shall not apply in the case of a state
17 policeman retired for disability and who has attained age 52
18 if he or she is a Tier I plan member or in the case of a state
19 policeman or a correctional officer, firefighter, or law
20 enforcement officer as defined in Section 36-27-59 with at
21 least ~~ten~~ 10 years of creditable service as a correctional
22 officer, firefighter, or law enforcement officer retired for
23 disability who has attained age 56 if he or she is a Tier II
24 plan member. Should the medical board report and certify to
25 the Board of Control that a disability beneficiary who is a

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

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

21 "(c) Disposition of contributions and allowances
22 upon death, etc., of member.

23 "(1) Should a member cease to be an employee except
24 by death or by retirement under the provisions of this
25 article, the contributions standing to the credit of his or

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

13 "(2) In case of the death of a member eligible for
14 service retirement pursuant to subsection (a) of this section,
15 an allowance shall be paid to the surviving spouse, if
16 designated as the sole beneficiary, in an amount that would
17 have been payable if the member had retired immediately prior
18 to his or her death and had elected Option 2, as set forth in
19 subsection (d) of this section, or to such other person who
20 the member shall have designated, in an amount that would have
21 been payable if the member had retired immediately prior to
22 his or her death and had elected Option 3, as set forth in
23 subsection (d) of this section ~~or, alternatively.~~
24 Alternatively, if the surviving spouse or other designee
25 desires, he or she may choose to receive, in lieu of the

1 allowance provided under Option 2 or Option 3, the accumulated
2 contributions of the member plus an amount equal to the
3 accumulated contributions of the member not to exceed
4 ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated
5 contributions of the member plus the benefit provided by
6 Section 36-27B-3 if a benefit is payable under ~~such~~ that
7 section;

8 "(3) In case of the death of a Tier I plan member
9 not eligible for service retirement, after completion of 25
10 years of creditable service, an allowance shall be paid to the
11 surviving spouse, if designated as the sole beneficiary, in an
12 amount that would have been payable if the member had retired
13 immediately prior to his or her death and had elected Option
14 2, as set forth in subsection (d) of this section, or to such
15 other person who the member shall have designated, in an
16 amount that would have been payable if the member had retired
17 for disability immediately prior to his or her death and had
18 elected Option 3 as set forth in subsection (d) of this
19 section ~~or, alternatively.~~ Alternatively, if the surviving
20 spouse or other designee desires, he or she may choose to
21 receive, in lieu of the allowance provided under Option 2 or
22 Option 3, the accumulated contributions of the member plus an
23 amount equal to the accumulated contributions of the member
24 not to exceed ~~\$5,000.00~~ five thousand dollars (\$5,000) or the
25 accumulated contributions of the member plus the benefit

1 provided by Section 36-27B-3 if a benefit is payable under
2 ~~such~~ that section. For purposes of this subsection only,
3 hazardous duty time, as set forth in subdivision (b)(1) of
4 Section 36-27-59, may be used in calculating the requisite
5 years of service for firefighters, law enforcement officers,
6 and correctional officers even if the member has not otherwise
7 attained 25 years of creditable service;

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

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

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

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

13 "(3) OPTION 3. Upon his or her death, one half of
14 his or her reduced allowance shall be continued throughout the
15 life of and paid to the person as he or she shall nominate by
16 written designation duly acknowledged and filed with the Board
17 of Control at the time of his or her retirement; or

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

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

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

1 contribution equal to the amount he or she would have
2 contributed had he or she been a member during the period of
3 his or her restoration to active service on a suspended
4 allowance basis together with the interest which would have
5 been credited to the contributions on account of ~~such~~ the
6 period of restoration up to the date ~~such~~ the contribution is
7 made.

8 "(f) (1) REDETERMINATION, ETC., OF CERTAIN
9 ALLOWANCES. All retirement allowance payments due on or after
10 October 1, 1975, to members who retired prior to that date
11 shall be redetermined as if the provisions of this section in
12 effect on October 1, 1975, were in effect at the time the
13 member retired. Anything in this article to the contrary
14 notwithstanding, the annual retirement allowance of any member
15 not employed as a state policeman who retired on or before
16 January 1, 1956, shall not be less than ~~\$79.20~~ seventy-nine
17 dollars twenty cents (\$79.20) multiplied by the number of
18 years of his or her creditable service not in excess of 30
19 years in the case of service retirement of ~~\$59.40~~ fifty-nine
20 dollars forty cents (\$59.40) multiplied by the number of years
21 of his or her creditable service not in excess of 30 years in
22 the case of disability retirement. Any increase provided in
23 the retirement allowance payment under this subdivision for a
24 member who retired under the provisions of any optional
25 benefit elected pursuant to subsection (d) of this section

1 shall accrue only to the retired member, and no person
2 designated to receive any payments after the death of a
3 retired member under the provisions of any ~~such~~ optional
4 benefit shall receive any increase in ~~such~~ payments under this
5 subdivision. Notwithstanding, any member who retired prior to
6 October 1, 1975, and who chose either Option 2 or Option 3 may
7 elect to receive a reduced allowance and to stipulate that the
8 actuarial equivalent of the increase in his or her retirement
9 allowance, which became effective on that date, be ascribed to
10 his or her designated beneficiary; provided, that ~~such~~ the
11 member shall clearly express this intention by filing a
12 written application to the effect with the Secretary-Treasurer
13 of the Employees' Retirement System of Alabama prior to
14 October 1, 1976.

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

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

1 "b. If ~~such~~ the person was retired after January 1,
2 1956, an amount equal to ~~\$72.00~~ seventy-two dollars (\$72)
3 multiplied by the number of years of his or her creditable
4 service not in excess of 25 years.

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

20 "(g) Notwithstanding any other provisions of this
21 section to the contrary, when a designated beneficiary for a
22 member predeceases the member who is receiving a monthly
23 benefit allowance provided under Option 2, 3, or 4, the member
24 may designate a replacement beneficiary for the deceased
25 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."

1 Section 2. This act shall become effective
2 retroactive to ~~September~~ January 1, 2021, following its
3 passage and approval by the Governor, or its otherwise
4 becoming law.

