

1 SB57  
2 197416-2  
3 By Senator Ward  
4 RFD: Governmental Affairs  
5 First Read: 05-MAR-19

1 SB57

2  
3  
4 ENROLLED, An Act,

5 Relating to the Retirement Systems of Alabama; to  
6 amend Sections 12-18-156, 16-25-14, and 36-27-16, Code of  
7 Alabama 1975, to provide that a member of the Retirement  
8 Systems of Alabama may designate that a portion of his or her  
9 retirement benefits be paid to a special needs trust for the  
10 benefit of a dependent child.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 12-18-156, 16-25-14, and  
13 36-27-16, Code of Alabama 1975, are amended to read as  
14 follows:

15 "§12-18-156.

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

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

6 "(b) In case of the death of a member eligible for  
7 service retirement pursuant to Section 12-18-154, an allowance  
8 shall be paid to the surviving spouse, or to such other person  
9 who the member shall have designated, in an amount that would  
10 have been payable if the member had retired immediately prior  
11 to his or her death and had elected Option 3, as set forth in  
12 subsection (d) or, alternatively, if the surviving spouse or  
13 other designee desires, he or she may choose to receive, in  
14 lieu of the allowance provided under Option 3, the accumulated  
15 contributions of the member plus an amount equal to the  
16 accumulated contributions of the member not to exceed  
17 \$5,000.00 or the accumulated contributions of the member plus  
18 the benefit provided by Section 36-27B-3 if a benefit is  
19 payable under such section.

20 "(c) Upon the death of a member on account of whom  
21 no survivor allowance is payable under subsection (b), the  
22 accumulated contributions of the member plus an amount equal  
23 to the accumulated contributions not to exceed \$5,000 or the  
24 accumulated contributions of the member plus the benefit  
25 provided by Section 36-27B-3 if a benefit is payable under

1 such section shall be paid to his or her estate or to such  
2 person as he or she shall have nominated by written  
3 designation duly executed and filed with the Board of Control.

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

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

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

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

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

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

12 "(5) Where the person designated by the member under  
13 this subsection to receive a continued retirement allowance is  
14 a beneficiary of a special needs trust established under Title  
15 42, United States Code, Section 1396p(d)(4)(A) or (C), as  
16 amended, the retirement allowance payable to the person may be  
17 paid by the retirement system to the special needs trust upon  
18 written direction to the retirement system by the member or,  
19 after the member is deceased, by the designated person or by  
20 his or her legal representative if the designated person is a  
21 minor or is incapacitated.

22 "(e) 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

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

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

23 "§16-25-14.

24 "(a) (1) Any Tier I plan member who withdraws from  
25 service upon or after attainment of age 60 and any Tier II

1 plan member who withdraws from service upon or after  
2 attainment of age 62, or in the case of a Tier II plan member  
3 who is a correctional officer, firefighter, or law enforcement  
4 officer as defined in Section 36-27-59, who withdraws from  
5 service upon or after attainment of age 56 with at least ten  
6 years of creditable service as a correctional officer,  
7 firefighter, or law enforcement officer may retire upon  
8 written application to the Board of Control setting forth at  
9 what time, not less than 30 days nor more than 90 days  
10 subsequent to the execution and filing thereof, he or she  
11 desires to be retired; provided, that any such member who  
12 became a member on or after October 1, 1963, shall have  
13 completed 10 or more years of creditable service.

14 "(2) Any Tier I plan member who has attained age 60  
15 and any Tier II plan member who has attained age 62, or in the  
16 case of a Tier II plan member who is a correctional officer,  
17 firefighter, or law enforcement officer as defined in Section  
18 36-27-59, who has attained age 56 with at least ten years of  
19 creditable service as a correctional officer, firefighter, or  
20 law enforcement officer and has previously withdrawn from  
21 service may retire upon written application to the Board of  
22 Control setting forth at what time, not less than 30 days nor  
23 more than 90 days subsequent to the execution and filing  
24 thereof, he or she desires to be retired; provided, that the  
25 member shall have completed at the time for his or her

1 withdrawal from service the requirements established by the  
2 Board of Control for eligibility for deferred benefits  
3 pursuant to Section 16-25-3.

4 "(3) Any person who is presently covered or is  
5 eligible to be covered under the Employees' Retirement System  
6 of Alabama or the Teachers' Retirement System of Alabama and  
7 who, prior to such coverage or eligibility for coverage,  
8 served as head of any Alabama county's public library service  
9 department shall have credited to him or her one year of  
10 creditable service for each year served as such head, not to  
11 exceed 12 years; provided, that such person shall pay into the  
12 retirement system the employee's part of the cost or  
13 contribution based on the salary paid to such person during  
14 the time of his or her service in the above capacity, with  
15 such cost or contribution to be calculated at the percent or  
16 rate in effect on October 1, 1973.

17 "(4) Any Tier I plan member of the Teachers'  
18 Retirement System of Alabama, who withdraws from service after  
19 the completion of at least 25 years of creditable service, may  
20 retire upon written application to the Board of Control of the  
21 Teachers' Retirement System setting forth at what time, not  
22 less than 30 days nor more than 90 days subsequent to the  
23 execution and filing thereof, he or she desires to be retired;  
24 provided, that any such member who became a Tier I plan member



1 on or after October 1, 1963 shall have completed 10 or more  
2 years of creditable service.

3 "(b) Upon retirement from service, a Tier I plan  
4 member shall receive a service retirement allowance which  
5 shall consist of:

6 "(1) An annuity which shall be the actuarial  
7 equivalent of his or her accumulated contributions at the time  
8 of his or her retirement;

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

13 "(3) If he or she has a prior service certificate in  
14 full force and effect, an additional pension which shall be  
15 equal to the annuity which would have been provided at age of  
16 retirement, but not to exceed an annuity allowable at age 65  
17 by twice the contributions which he or she would have made  
18 during the period of prior service with which he or she is  
19 credited had the system been in operation and had he or she  
20 contributed thereunder. In lieu of a determination of the  
21 actual compensation of the members that was received during  
22 such prior service, the Board of Control may use for the  
23 purposes of this chapter the compensation rates which, if they  
24 had progressed with the rates of salary increase shown in the  
25 tables as prescribed in subsection (o) of Section 16-25-19,

1 would have resulted in the same average salary of the member  
2 for the five years immediately preceding the date of  
3 establishment as the records show the member actually  
4 received.

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

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

13 "(2) If he or she became a member before October 1,  
14 1971, \$72 multiplied by the number of years of his or her  
15 creditable service not in excess of 25 years.

16 "Notwithstanding, a member who retired prior to  
17 October 1, 1971, under service retirement shall receive \$120  
18 multiplied by the number of years of his or her creditable  
19 service not in excess of 25 years.

20 "(d) Upon retirement from service, a Tier II plan  
21 member shall receive a service retirement allowance which  
22 shall consist of an annuity which shall be the actuarial  
23 equivalent of the member's accumulated contributions at the  
24 time of retirement and a pension which, when added to the  
25 member's annuity, shall be equal to one and sixty-five

1 hundredths percent (1.65%) of the member's average final  
2 compensation multiplied by the number of years of creditable  
3 service. Notwithstanding the foregoing, the service retirement  
4 allowance shall not exceed eighty percent (80%) of the  
5 member's average final compensation.

6 "(e) Upon the application of a Tier I plan member in  
7 service or of his or her employer, any member who has had 10  
8 or more years of creditable service may be retired by the  
9 Board of Control on a disability retirement allowance not less  
10 than 30 nor more than 90 days next following the date of  
11 filing such an application; provided, that the medical board,  
12 after a medical examination of such member, shall certify that  
13 such member is mentally or physically incapacitated for  
14 further performance of duty, that such incapacity is likely to  
15 be permanent, and that such member should be retired. Upon the  
16 application of a Tier II plan member in service or of his or  
17 her employer, any member who has had 10 or more years of  
18 creditable service may be retired by the Board of Control on a  
19 disability retirement allowance not less than 30 nor more than  
20 90 days next following the date of filing such an application;  
21 provided, that the medical board, after a medical examination  
22 of such member, shall certify that the member is totally and  
23 permanently mentally or physically incapacitated from regular  
24 and substantial gainful employment, and that such member  
25 should be retired.

1           "(f) Upon retirement for disability, a Tier I plan  
2 member shall receive a service retirement allowance if he or  
3 she has attained age 60 or if any law or part of any law  
4 pertaining to retirement under the Teachers' Retirement System  
5 of Alabama provides for service retirement after the  
6 completion of 25 years of creditable service and the member  
7 has completed 25 years of creditable service; otherwise, he or  
8 she shall receive a disability retirement allowance which  
9 shall consist of:

10           "(1) An annuity which shall be the actuarial  
11 equivalent of his or her accumulated contributions at the time  
12 of retirement; and

13           "(2) A pension which shall be equal to the pension  
14 that would have been payable under subdivisions (2) and (3) of  
15 subsection (b) of this section upon service retirement at age  
16 60 had the member continued in service to that age without  
17 change in compensation.

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

21           "a. Two and one-eightieth percent of the member's  
22 average final compensation multiplied by the number of years  
23 of creditable service.

1            "b. If he or she became a member before October 1,  
2 1971, \$54 multiplied by the number of years of his or her  
3 creditable service not in excess of 25 years.

4            "Notwithstanding, a member who retired prior to  
5 October 1, 1971, for disability shall receive \$90 multiplied  
6 by the number of years of his or her creditable service not in  
7 excess of 25 years.

8            "(g) Upon retirement for disability, a Tier II plan  
9 member shall receive a service retirement allowance if the  
10 member has attained age 62, or in the case of a Tier II plan  
11 member who is a correctional officer, firefighter, or law  
12 enforcement officer as defined in Section 36-27-59, if the  
13 member has attained age 56 with at least ten years of  
14 creditable service as a correctional officer, firefighter, or  
15 law enforcement officer, otherwise, the member shall receive a  
16 disability retirement allowance which shall be equal to one  
17 and sixty-five hundredths percent (1.65%) of the member's  
18 average final compensation multiplied by the number of years  
19 of creditable service.

20            "(h) (1) Once each year during the first five years  
21 following the retirement of a member on a disability  
22 retirement allowance and once in every three-year period  
23 thereafter, the Board of Control may and upon his or her  
24 application shall require any disability beneficiary who has  
25 not yet attained age 60 for a Tier I plan member or age 62 for

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

18 "(2) Should the medical board report and certify to  
19 the Board of Control that a disability beneficiary who is a  
20 Tier I plan member is engaged in or is able to engage in a  
21 gainful occupation paying more than the difference between his  
22 or her retirement allowance and his average final compensation  
23 and should the Board of Control concur in such report, then  
24 the amount of his or her pension shall be reduced to an amount  
25 which, together with his or her annuity and the amount

1       earnable by him or her, shall equal the amount of his or her  
2       average final compensation. Should his or her earning capacity  
3       be later changed, the amount of his or her pension may be  
4       further modified; provided, that the new pension shall not  
5       exceed the amount of the pension originally granted nor an  
6       amount which, when added to the amount earnable by the  
7       beneficiary together with his or her annuity, equals the  
8       amount of his or her average final compensation.

9               "(3) Should the medical board report and certify to  
10       the Board of Control that a disability beneficiary who is a  
11       Tier II plan member has the capacity to engage in regular and  
12       substantial gainful employment, the Board of Control shall  
13       discontinue the beneficiary's retirement allowance until the  
14       beneficiary is otherwise eligible for service retirement.

15              "(i) (1) Should a member cease to be a teacher,  
16       except by death or by retirement under the provisions of this  
17       chapter, the contributions standing to the credit of his or  
18       her individual account in the Annuity Savings Fund shall be  
19       paid to him or her upon demand, and in addition to such  
20       payment there shall be paid five-tenths of the interest  
21       accumulations standing to the credit of his or her individual  
22       account if he or she shall have not less than three but less  
23       than 16 years of membership service, six-tenths of such  
24       interest accumulations if he or she shall have not less than  
25       16 but less than 21 years of membership service, seven-tenths

1 of such interest accumulations if he or she shall have not  
2 less than 21 but less than 26 years of membership service, and  
3 eight-tenths of such interest accumulations if he or she shall  
4 have not less than 26 years of membership service.

5 "(2) In case of the death of a member eligible for  
6 service retirement pursuant to subsection (a) of this section,  
7 an allowance shall be paid to the surviving spouse, or to such  
8 other person who the member shall have designated, in an  
9 amount that would have been payable if the member had retired  
10 immediately prior to his or her death and had elected Option  
11 3, as set forth in subsection (j) of this section or,  
12 alternatively, if the surviving spouse or other designee  
13 desires, he or she may choose to receive, in lieu of the  
14 allowance provided under Option 3, the accumulated  
15 contributions of the member plus an amount equal to the  
16 accumulated contributions of the member not to exceed \$5,000  
17 or the accumulated contributions of the member plus the  
18 benefit provided by Section 36-27B-3 if a benefit is payable  
19 under such section.

20 "(3) Upon the death of a member on account of whom  
21 no survivor allowance is payable under subdivision (2) of this  
22 subsection, the accumulated contributions of the member plus  
23 an amount equal to the accumulated contributions not to exceed  
24 \$5,000 or the accumulated contributions of the member plus the  
25 benefit provided by Section 36-27B-3 if a benefit is payable



1 under such section shall be paid to his or her estate or to  
2 such person as he shall have nominated by written designation  
3 duly executed and filed with the Board of Control.

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

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

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

24 "(3) OPTION 3. Upon his or her death, one half of  
25 his or her reduced retirement allowance shall be continued

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

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

12 "(5) Where the person designated by the member under  
13 this subsection to receive a continued retirement allowance is  
14 a beneficiary of a special needs trust established under Title  
15 42, United States Code, Section 1396p(d)(4)(A) or (C), as  
16 amended, the retirement allowance payable to the person may be  
17 paid by the retirement system to the special needs trust upon  
18 written direction to the retirement system by the member or,  
19 after the member is deceased, by the designated person or by  
20 his or her legal representative if the designated person is a  
21 minor or is incapacitated.

22 "(k) Should any beneficiary be restored to active  
23 service, his or her retirement allowance shall be suspended  
24 until he or she again withdraws from service and, he or she  
25 shall not again become a member, nor shall he or she make

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

18 "(1) (1) All retirement allowance payments due on or  
19 after October 1, 1975, to members who retired prior to October  
20 1, 1975, shall be redetermined as if the provisions of  
21 subsections (b) and (e) of this section which became effective  
22 on said date were in effect at the time the member retired;  
23 provided, that the annual retirement allowance of any member  
24 who retired on or before January 1, 1956, shall be not less  
25 than \$132 multiplied by the number of years of his or her

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

13               "(2) Any person who served at least 30 years as a  
14      teacher in the public schools of Alabama and was never a  
15      member of the system and who, prior to October 1, 1963, was in  
16      receipt of a benefit for old age assistance pursuant to  
17      subsections (1) and (2) of Section 1 of Act 116, approved  
18      August 24, 1959, shall be entitled to receive an annual  
19      retirement allowance of \$3,960 from the system, effective as  
20      of 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 election shall be  
2 credited, together with regular interest thereon, to the  
3 individual account of such beneficiary. Upon the death of such  
4 beneficiary, the total amount standing to his or her credit,  
5 including regular interest to the date of death, shall be paid  
6 in a lump sum to his or her legal representative or to such  
7 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  
19 service upon or after attainment of age 60 and any Tier II  
20 plan member who withdraws from service upon or after  
21 attainment of age 62 may retire upon written application to  
22 the Board of Control setting forth at what time, not less than  
23 30 days nor more than 90 days subsequent to the execution and  
24 filing thereof, he or she desires to be retired; provided,  
25 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 plan member employed  
3 as a 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 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 years of creditable service as  
17 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

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 employer elects to come under the provisions of the  
17 paragraph. Any employer making such election must bear the  
18 cost of such 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 prior  
4 service, the Board of Control may use for the purpose of this  
5 article the compensation rate which, if it had progressed with  
6 the rates of salary increase shown in the tables as prescribed  
7 in subsection (n) of Section 36-27-23, would have resulted in  
8 the same average salary of the member for the five years  
9 immediately preceding the date of establishment as the records  
10 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 multiplied by the number of years of his or her  
21 creditable service not in excess of 25 years.

22 "d. The annual service retirement pension payable to  
23 a Tier I plan member employed as a state policeman retiring on  
24 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 multiplied by the number of years of his or her  
14 creditable service not in excess of 25 years; provided,  
15 however, that if such member has completed 20 years of  
16 creditable service as a state policeman and has not attained  
17 age 60 at the time of retirement, the pension shall be  
18 determined as provided in this subparagraph on the basis of  
19 the number of years of creditable service which he or she  
20 would have had if he or she had remained in service for four  
21 years, except that, in the case of those state policemen  
22 retiring at age 56 or after, the number of years in  
23 determining the pension shall not exceed the number of years  
24 of creditable service which he or she would have had if he or  
25 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 multiplied by the number of years of his or her service not in  
21 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 application; provided,  
5 that the medical board, after a medical examination of such  
6 member, shall certify that such member is mentally or  
7 physically incapacitated for the further performance of duty,  
8 that such incapacity is likely to be permanent and that such  
9 member should be retired. Upon the application of a Tier II  
10 plan member in service or his or her employer, any member who  
11 has had 10 or more years of creditable service may be retired  
12 by the Board of Control on a disability retirement allowance  
13 not less than 30 nor more than 90 days next following the date  
14 of filing such application; provided, that the medical board,  
15 after a medical examination of such member, shall certify that  
16 the member is totally and permanently mentally or physically  
17 incapacitated from regular and substantial gainful employment,  
18 and that such member should be retired.

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

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

14 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

15 "a. Upon retirement for disability a member shall  
16 receive a service retirement allowance if he or she is a Tier  
17 I plan member and he or she has attained age 60 or if he or  
18 she is a Tier II plan member and he or she has attained age  
19 62, or if any law or part of any law pertaining to retirement  
20 under the Employees' Retirement System of Alabama provides for  
21 service retirement after the completion of 25 years of  
22 creditable service without a reduction in the retirement  
23 allowance and the member has completed 25 years of creditable  
24 service, or, in the case of a state policeman, if he or she is  
25 a Tier I plan member and he or she has attained age 52 or, in



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

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

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

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

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

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

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

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

18           "2. If he or she became a member before October 1,  
19 1965, \$64.80 multiplied by the number of years of his or her  
20 creditable service not in excess of 25 years.

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

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

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

19            "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON  
20 ACCOUNT OF DISABILITY. Once each year during the first five  
21 years following the retirement of a member on a disability  
22 retirement allowance and once every three-year period  
23 thereafter, the Board of Control may, and upon his or her  
24 application shall, require any disability beneficiary who has  
25 not yet attained age 60 if the beneficiary is a Tier I plan

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

1 allowance and his or her average final compensation and should  
2 the Board of Control concur in such report, then the amount of  
3 his or her pension shall be reduced to an amount which,  
4 together with his or her annuity and the amount earnable by  
5 him or her shall equal the amount of his or her average final  
6 compensation. Should his or her earning capacity be later  
7 changed, the amount of his or her pension may be further  
8 modified; provided, that the new pension shall not exceed the  
9 amount of the pension originally granted nor an amount which,  
10 when added to the amount earnable by the beneficiary, together  
11 with this annuity exceeds the amount of his or her average  
12 final compensation.

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

19 "(c) Disposition of contributions and allowances  
20 upon death, etc., of member.

21 "(1) Should a member cease to be an employee except  
22 by death or by retirement under the provisions of this  
23 article, the contributions standing to the credit of his or  
24 her individual account in the Annuity Savings Fund shall be  
25 paid to him or her upon demand and, in addition to such

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

11 "(2) In case of the death of a member eligible for  
12 service retirement pursuant to subsection (a) of this section,  
13 an allowance shall be paid to the surviving spouse, or to such  
14 other person who the member shall have designated, in an  
15 amount that would have been payable if the member had retired  
16 immediately prior to his or her death and had elected Option  
17 3, as set forth in subsection (d) of this section or,  
18 alternatively, if the surviving spouse or other designee  
19 desires, he or she may choose to receive, in lieu of the  
20 allowance provided under Option 3, the accumulated  
21 contributions of the member plus an amount equal to the  
22 accumulated contributions of the member not to exceed  
23 \$5,000.00 or the accumulated contributions of the member plus  
24 the benefit provided by Section 36-27B-3 if a benefit is  
25 payable under such section;

1           "(3) In case of the death of a Tier I plan member  
2 not eligible for service retirement, after completion of 25  
3 years of creditable service, an allowance shall be paid to the  
4 surviving spouse, or to such other person who the member shall  
5 have designated, in an amount that would have been payable if  
6 the member had retired for disability immediately prior to his  
7 or her death and had elected Option 3 as set forth in  
8 subsection (d) of this section or, alternatively, if the  
9 surviving spouse or other designee desires, he or she may  
10 choose to receive, in lieu of the allowance provided under  
11 Option 3, the accumulated contributions of the member plus an  
12 amount equal to the accumulated contributions of the member  
13 not to exceed \$5,000.00 or the accumulated contributions of  
14 the member plus the benefit provided by Section 36-27B-3 if a  
15 benefit is payable under such section;

16           "(4) Upon the death of a member on account of whom  
17 no survivor allowance is payable under subdivisions (2) or (3)  
18 of this subsection, the accumulated contributions of the  
19 member plus an amount equal to the accumulated contributions  
20 not to exceed \$5,000 or the accumulated contributions of the  
21 member plus the benefit provided by Section 36-27B-3 if a  
22 benefit is payable under such section shall be paid to his or  
23 her estate or to such person as he or she shall have nominated  
24 by written designation duly executed and filed with the Board  
25 of Control.

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

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

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

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



1 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 ~~such~~ the person or persons  
5 as he or she shall nominate; provided, that such other  
6 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) Where the person designated by the member under  
11 this subsection to receive a continued retirement allowance is  
12 a beneficiary of a special needs trust established under Title  
13 42, United States Code, Section 1396p(d)(4)(A) or (C), as  
14 amended, the retirement allowance payable to the person may be  
15 paid by the retirement system to the special needs trust upon  
16 written direction to the retirement system by the member or,  
17 after the member is deceased, by the designated person or by  
18 his or her legal representative if the designated person is a  
19 minor or is incapacitated.

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

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

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

1 the number of years of his or her creditable service not in  
2 excess of 30 years in the case of service retirement of \$59.40  
3 multiplied by the number of years of his or her creditable  
4 service not in excess of 30 years in the case of disability  
5 retirement. Any increase provided in the retirement allowance  
6 payment under this subdivision for a member who retired under  
7 the provisions of any optional benefit elected pursuant to  
8 subsection (d) of this section shall accrue only to the  
9 retired member, and no person designated to receive any  
10 payments after the death of a retired member under the  
11 provisions of any such optional benefit shall receive any  
12 increase in such payments under this subdivision.

13 Notwithstanding, any member who retired prior to October 1,  
14 1975, and who chose either Option 2 or Option 3 may elect to  
15 receive a reduced allowance and to stipulate that the  
16 actuarial equivalent of the increase in his or her retirement  
17 allowance, which became effective on that date, be ascribed to  
18 his or her designated beneficiary; provided, that such member  
19 shall clearly express this intention by filing a written  
20 application to the effect with the Secretary-Treasurer of the  
21 Employees' Retirement System of Alabama prior to October 1,  
22 1976.

23 "(2) Any person who, prior to October 1, 1963, was  
24 in receipt of a benefit pursuant to Act No. 376, approved  
25 November 6, 1959, but was not a member of the system at the

1 time of retirement shall not be entitled to receive an annual  
2 retirement allowance from the system, effective October 1,  
3 1971, as follows:

4 "a. If such person was retired on or before January  
5 1, 1956, an amount equal to \$79.20 multiplied by the number of  
6 years of his or her creditable service not in excess of 30  
7 years.

8 "b. If such person was retired after January 1,  
9 1956, an amount equal to \$72.00 multiplied by the number of  
10 years of his or her creditable service not in excess of 25  
11 years.

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

1 she shall have nominated by written designation duly  
2 acknowledged and filed with the Board of Control.

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

16 "(h) Notwithstanding any provision of this section  
17 to the contrary, if a retired member who is receiving a  
18 monthly benefit allowance provided under Option 2, 3, or 4  
19 divorces his or her designated beneficiary, the member may  
20 designate a replacement beneficiary for the beneficiary to  
21 become effective two years after the date of designation of  
22 the replacement beneficiary and an actuarial adjustment in the  
23 monthly benefit allowance of the member to cover any cost  
24 associated with designating a replacement beneficiary shall be  
25 reflected thereafter in the monthly benefit allowance received

1 by the member, commencing with the first benefit allowance  
2 check received by the member following the date of designation  
3 of the replacement beneficiary.

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

---

President and Presiding Officer of the Senate

---

Speaker of the House of Representatives

SB57  
Senate 16-APR-19  
I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris,  
Secretary.

---

House of Representatives  
Passed: 14-MAY-19

---

By: Senator Ward