

1 HB384
2 197441-2
3 By Representative Carns (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 09-APR-19

1
2 ENROLLED, An Act,

3 Relating to Jefferson County; relating to the
4 General Retirement System for Employees of Jefferson County;
5 to amend Sections 45-37-123.01, 45-37-123.21, 45-37-123.22,
6 45-37-123.24, 45-37-123.53, 45-37-123.54, 45-37-123.82,
7 45-37-123.101, 45-37-123.103, 45-37-123.104, 45-37-123.151,
8 and 45-37-123.195 of the Code of Alabama 1975, to add
9 definitions for the terms "benefit enhancement," "executive
10 director" and "spouse"; to remove definitions of the terms
11 "another pension system," "county treasurer" and "pension
12 coordinator"; to revise definitions of the terms "active
13 member," "compensation," "county," "eligible employee," "sick
14 leave retirement conversion" and "unpaid membership time"; to
15 add a qualification that member number three of the pension
16 board have a minimum of 10 years' experience as a certified
17 public accountant; to require that member number five of the
18 pension board be a member of the system; to provide that
19 elections of members number four and five of the pension board
20 may be conducted by paper or electronic ballot; to require
21 that the county manager inform those persons on the county
22 payroll of elections for members numbers four and five; to
23 authorize the pension board to appoint members of the election
24 board only in the event that the members of the system fail to
25 do so or in the event a member so appointed cannot or will not

1 serve on the election board; to provide a mechanism for the
2 removal of a member of the pension board; to make the
3 executive director of the system the secretary of the system;
4 to authorize the pension board to award cost-of-living benefit
5 increases in any form, lump sum or otherwise; to authorize the
6 pension board to determine the validity of and take
7 appropriate action with respect to any divorce decree or
8 other judicial order presented to the pension board; to
9 authorize notification of the annual meeting to be provided to
10 members of the system by electronic mail; to authorize the
11 pension board to purchase insurance coverage in forms and
12 amounts determined by the pension board; to authorize the
13 pension board to provide health, dental, vision, and other
14 forms of insurance, paid leave, and other employment benefits
15 to its employees; to authorize the pension board to provide
16 life, disability, and other forms of voluntary insurance to
17 members of the system provided the cost thereof is paid by
18 such member; to remove the designation of a legal advisor for
19 the system; to authorize the pension board to permit members
20 of the system to convert unpaid membership time to paid
21 membership time; to require pension board approval of any
22 commission authorized conversion of unpaid membership time to
23 paid membership time; to require the county to pay for an
24 actuarial evaluation of the system before any conversion of
25 unpaid membership time to paid membership time; to clarify

1 that neither the county, the system, or the pension board is
2 required to fund a conversion of unpaid membership time to
3 paid membership time; to clarify how a member continues to
4 participate in the system upon being rehired by the county; to
5 authorize the pension board to provide employee contributions
6 to be made on either a pre or after tax basis in the
7 discretion of the pension board; to provide that a member may
8 not withdraw his or her contributions to the system by joining
9 another pension plan; to clarify that a member may cease
10 contributions to the system upon attaining 30 years of paid
11 membership time; to clarify that, upon termination of
12 employment, a member may not rescind an election for a
13 postretirement joint survivorship pension; to authorize the
14 pension board, in certain circumstances to interplead into a
15 court of competent jurisdiction a deceased member's death
16 benefit; to further provide that a member may not withdraw his
17 or her contributions by joining another pension plan; to
18 clarify that a member who has attained 30 years of paid
19 membership time may cease making contributions to the system
20 and to provide that, in certain circumstances, a refund of
21 employee contributions to the beneficiary of a deceased member
22 shall be paid with interest; to authorize the pension board to
23 increase or enhance member benefits by lump sum payment or in
24 such other form or manner as the pension board may prescribe;
25 to alter the procedure to increase or enhance a member's

1 benefit; and to authorize the pension board to require
2 execution of an indemnification agreement when making certain
3 payments to a member, a member's legal representative,
4 beneficiary, guardian, or committee appointed for such member.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 45-37-123.01, 45-37-123.21,
7 45-37-123.22, 45-37-123.24, 45-37-123.53, 45-37-123.54,
8 45-37-123.82, 45-37-123.101, 45-37-123.103, 45-37-123.104,
9 45-37-123.151, and 45-37-123.195 of the Code of Alabama 1975,
10 are amended to read as follows:

11 "§45-37-123.01.

12 "For the purposes of this part, the following terms
13 shall have the following meanings:

14 "(1) ACT. The act adding this part, to be called the
15 General Retirement System for Employees of Jefferson County
16 Act.

17 "(2) ACTIVE MEMBER. An individual that currently is
18 employed by the county or other entities set forth in
19 subdivision (20) and is making employee contributions to the
20 system.

21 "(3) ACTUARIAL EQUIVALENT. Effective July 30, 1984,
22 or such other dates as set forth in Exhibit A, which is
23 maintained in the office of the pension board, a form of
24 benefit differing in time, period, or manner of payment from a
25 specific benefit provided under the plan but having the same

1 value when computed using the mortality tables, the interest
2 rate, and any other assumptions last adopted by the pension
3 board, which assumptions shall clearly preclude any discretion
4 in the determination of the amount of a member's benefit.

5 "(4) ACTUARIAL GAIN. As defined in Section
6 45-37-123.106(f) (1).

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

13 ~~"(6) ANOTHER PENSION SYSTEM. As used in Sections~~
14 ~~45-37-123.82(c) and 45-37-123.104(3), means a pension system~~
15 ~~established by or under laws of the State of Alabama for~~
16 ~~public officers and public employees other than the system~~
17 ~~establishing this plan, which other pension system proscribes~~
18 ~~or otherwise does not allow for voluntary withdrawal by the~~
19 ~~member from the other pension system.~~

20 "~~(7)~~ (6) BASIC AVERAGE SALARY. Generally means,
21 effective as of February 1, 2010, the monthly compensation of
22 a member averaged over the period of 36 consecutive months of
23 paid membership time during which such member's average
24 monthly compensation was higher than any other period of 36
25 consecutive months of paid membership time. For example, if a

1 member terminated employment on June 20, 2010, and his or her
2 highest consecutive 36 month period ends on the member's date
3 of termination of employment, then the measuring period for
4 determining basic average salary would be from June 21, 2007,
5 through June 20, 2010. The following rules shall apply in
6 calculating basic average salary:

7 "a. Daily Compensation Calculation. Subject to the
8 additional rules stated in this subdivision, the compensation
9 earned in each year, or portion of a year, during the 36-month
10 period shall be determined on a daily basis. The total of the
11 compensation earned in each applicable year, or portion
12 thereof, shall be added together and then divided by 36 to
13 arrive at the member's basic average salary. If the foregoing
14 process is not workable in some situations, then the pension
15 board shall approve a different method which is reasonable
16 given the terms of the act and the individual circumstances.

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

21 "c. Tacking of Nonconsecutive Paid Membership Time.
22 Separate periods of paid membership time may be tacked and
23 considered as consecutive if the member does not have any paid
24 membership time between the periods so tacked. For example, if
25 the member did not have any paid membership time between two

1 periods of paid membership time due to a leave of absence, the
2 leave of absence would be ignored in calculating basic average
3 salary.

4 "d. Post-termination Compensation. Compensation paid
5 subsequent to termination of participation in the system
6 pursuant to Section 45-37-123.52, due to ineligibility, shall
7 not be recognized in computing basic average salary. However,
8 notwithstanding any provisions of this plan to the contrary, a
9 member's final paycheck from the county shall be counted in
10 computing a member's basic average salary, but only to the
11 extent that such paycheck constitutes compensation, and the
12 highest consecutive 36 month period otherwise would end on the
13 date of the member's termination of employment.

14 "~~(8)~~ (7) BENEFICIARY. The person, or entity,
15 designated as provided in Section 45-37-123.103(d) to receive
16 the benefits which are payable under the plan upon or after
17 the death of a member.

18 "(8) BENEFIT ENHANCEMENT. An across the board
19 increase to a previously awarded benefit to which a member is
20 entitled.

21 "(9) CIVIL SERVICE SYSTEM. The personnel system
22 administered and operated by the Jefferson County Personnel
23 Board.

24 "(10) COMMISSION. The Jefferson County Commission.

25 "(11) COMPENSATION.

1 "a. With respect to any member means:

2 "1. The regular salary or hourly wages paid to a
3 member, based on his or her pay grade, as established by the
4 Jefferson County Personnel Board, or other appropriate
5 authority, for a calendar year ending with or within the
6 applicable plan year including any employee contributions
7 pursuant to Section 45-37-123.82(a);

8 "2. Plus any accumulated vacation time paid by the
9 county;

10 "3. Plus Worker's Compensation benefits, only as
11 described in subdivision (59); and

12 "4. Any differential wage payment, as defined in §
13 3401(h)(2), Internal Revenue Code, generally relating to
14 military pay.

15 "b. Bonuses, overtime, longevity pay, paid
16 accumulated sick leave (that is paid in the form of a lump
17 sum), uniform allowances, expense allowances, and any other
18 nonregular forms of compensation are excluded.

19 "c. Compliance with § 401(a)(17), Internal Revenue
20 Code. Because the transitional rule provided by Treasury
21 Regulation § 1.401(a)(17)-1(d)(4) of the regulations issued
22 under § 401(a)(17), Internal Revenue Code, does not apply to
23 the plan, compensation of each member taken into account in
24 determining benefit accruals in any plan year beginning after
25 December 31, 2001, shall not exceed two hundred thousand

1 dollars (\$200,000), or such other amount provided in the
2 Internal Revenue Code. Such amount shall be adjusted for
3 increases in the cost of living in accordance with §
4 401(a)(17)(B), Internal Revenue Code, except that the dollar
5 increase in effect on January 1 of any calendar year shall be
6 effective for the calendar years beginning with such calendar
7 year. For any short calendar year, the compensation limit
8 shall be an amount equal to the compensation limit for the
9 calendar year in which the calendar year begins multiplied by
10 the ratio obtained by dividing the number of full months in
11 the short calendar year by 12. For purposes of determining
12 benefit accruals in a plan year beginning after December 31,
13 2001, compensation for any prior calendar year shall be
14 limited to one hundred fifty thousand dollars (\$150,000) for
15 any calendar year beginning in 1996, one hundred sixty
16 thousand dollars (\$160,000) for any calendar year beginning in
17 1997, 1998, or 1999; and one hundred seventy thousand dollars
18 (\$170,000) for any calendar year beginning in 2000 or 2001.

19 "(12) COUNTY. Jefferson County, Alabama, and any
20 successor which shall maintain this plan. However, references
21 herein to employment by the county also shall include
22 employment by such other entities set forth in subdivision
23 (20) and by entities for which the county is acting as payroll
24 agent or wherein the county is being reimbursed by an entity
25 for the compensation of such entities' workers or wherein the

1 entity has appointing authority with respect to the workers.
2 Accordingly, such entities' workers shall be covered by the
3 plan to the extent allowed under the act and as determined by
4 the pension board in its administration of the plan.

5 ~~"(13) COUNTY TREASURER. An elected official of the~~
6 ~~county who is responsible for receiving and segregating into~~
7 ~~the trust fund all assets of the system.~~

8 ~~"(14)~~ (13) DEFERRED RETIREMENT BENEFIT. A benefit
9 payable pursuant to the terms of Section 45-37-123.100(c).

10 ~~"(15)~~ (14) DESIGNATED BENEFICIARY. As defined in
11 Section 45-37-123.103(d).

12 ~~"(16)~~ (15) DISABILITY RETIREMENT BENEFIT. A benefit
13 payable pursuant to the terms of Section 45-37-123.102.

14 ~~"(17)~~ (16) DISTRIBUTION CALENDAR YEAR. As defined in
15 Section 45-37-123.106(f)(3).

16 ~~"(18)~~ (17) EARLY RETIREMENT BENEFIT. A benefit
17 payable pursuant to the terms of Section 45-37-123.100(b).

18 ~~"(19)~~ (18) EFFECTIVE DATE. January 1, 2010, except as
19 otherwise provided.

20 ~~"(20)~~ (19) ELIGIBLE COST-OF-LIVING INDEX. As defined
21 in Section 45-37-123.106(f)(4).

22 ~~"(21)~~ (20) ELIGIBLE EMPLOYEE.

23 "a. The following individuals affiliated with
24 Jefferson County, Alabama, or the State of Alabama:

1 "1. Any person employed by Jefferson County at a
2 wage or salary payable at regular intervals, whether or not
3 such person is subject to the civil service system in
4 operation in Jefferson County.

5 ~~"2. Any person who served as an employee of a
6 license inspector prior to the time a retirement system became
7 operative in Jefferson County, not exceeding 20 years, whether
8 such service was under the State of Alabama or under Jefferson
9 County.~~

10 ~~"3. Any person who served or serves as the Solicitor
11 of the Juvenile Court of Jefferson County, the Solicitor of
12 the Domestic Relations Court of Jefferson County, or the
13 Solicitor of the Criminal Court of Jefferson County.~~

14 ~~"4. Any person who served or serves as a deputy
15 appointed by the circuit solicitor serving in Jefferson
16 County, to the extent that the compensation of the deputy is
17 paid by Jefferson County.~~

18 ~~"5. Any person who served or serves as an employee
19 of the Cooperative Extension Service of the State of Alabama,
20 provided such person was receiving or shall be receiving,
21 monthly compensation from Jefferson County for service
22 performed by such person.~~

23 ~~"6.2. Any person elected or appointed to a job or
24 position with or for Jefferson County, whose compensation was~~

1 paid or shall be paid, in whole or in part, by Jefferson
2 County while occupying such job or position.

3 ~~"7. Any person regularly employed by the Library~~
4 ~~Board of the City of Birmingham whose duties are performed~~
5 ~~under the direct supervision of the library board, who~~
6 ~~receives his or her salary, directly or indirectly, from the~~
7 ~~public funds of Jefferson County, excluding members of the~~
8 ~~library board and excluding officers of the library board who~~
9 ~~are elected by the people.~~

10 ~~"8. Any person who serves as the deputy solicitor~~
11 ~~servicing Jefferson County to the extent that the compensation~~
12 ~~of the deputy solicitor is paid by Jefferson County. Such~~
13 ~~person is an eligible deputy solicitor.~~

14 ~~"9.3. Any person who occupies a county office in~~
15 ~~Jefferson County that is created by an act of the Legislature~~
16 ~~of the State of Alabama or is provided for by the Constitution~~
17 ~~of Alabama of 1901, and such office requires full-time~~
18 ~~service. Such person is an eligible county office employee.~~

19 ~~"10. Any person who serves as the circuit solicitor~~
20 ~~servicing Jefferson County to the extent that the compensation~~
21 ~~of the circuit solicitor is paid by Jefferson County. Such~~
22 ~~person is an eligible circuit solicitor.~~

23 ~~"11.4. Any person who is an officer or an employee~~
24 ~~of a hospital created by Jefferson County if such person's~~
25 ~~employment status with the hospital is such that if the person~~

1 had the same employment status with Jefferson County, he or
2 she would be an eligible employee. Such person is an eligible
3 hospital employee.

4 ~~"12.5.~~ Any person employed by the General Retirement
5 System for Employees of Jefferson County at a wage or salary
6 payable at regular intervals, whether or not the person is
7 subject to the civil service system in operation in Jefferson
8 County.

9 "6. Any person employed by the Personnel Board of
10 Jefferson County at a wage or salary payable at regular
11 intervals, whether or not the person is subject to the civil
12 operation in Jefferson County.

13 "7. Any person employed by an entity for which the
14 county is acting as payroll agent or for which the county has
15 agreed to be reimbursed by the entity for the compensation
16 paid to the person, whether or not the person is subject to
17 the civil service system in operation in Jefferson County.

18 "b. An eligible employee shall not include:

19 "1. Any person who is appointed or elected as a
20 member of any board or commission of Jefferson County,
21 provided that service on such board or commission does not
22 require full-time service or the members on the board or
23 commission receive no compensation for their service except
24 for meetings attended by them.

1 "2. Any person whose employment is temporary so long
2 as his or her employment remains temporary. A person's
3 employment shall be deemed to be temporary within the meaning
4 of this subdivision if such employment is temporary as defined
5 by the civil service system, or if the officers, board,
6 commission, or agency employing such person certifies in
7 writing to the pension board that the employment is temporary.

8 "3. Any leased employee and any independent
9 contractor.

10 "~~(22)~~ (21) EMPLOYEE. Any person who is employed by
11 the county or elected or appointed to a job or position with
12 or for the county. An employee shall exclude any leased
13 employee and any independent contractor as such terms are
14 defined by the pension board or the civil service system. See
15 also subdivision (12), which covers situations in which other
16 entities may be the employer of eligible employees.

17 "~~(23)~~ (22) EMPLOYEE CONTRIBUTION. The amount a member
18 is required to contribute to the plan as a condition of
19 employment and participation in the plan pursuant to Section
20 45-37-123.82 and any amount required to be treated as an
21 employee contribution in accordance with Section
22 45-37-123.190(b), relating to transfers from § 457(b),
23 Internal Revenue Code, plans.

1 "~~(24)~~ (23) EMPLOYER CONTRIBUTION. The amount the
2 county is required to contribute to the plan pursuant to
3 Section 45-37-123.20(b) and Section 45-37-123.80(a).

4 "(24) EXECUTIVE DIRECTOR. The individual designated
5 by the pension board to manage the employees and day-to-day
6 administration of the system. The individual shall not be
7 subject to the civil service system.

8 "(25) FISCAL YEAR. The system's accounting year of
9 12 months commencing on October 1 of each year and ending the
10 following September 30.

11 "(26) 415 COMPENSATION. With respect to any member
12 means such member's wages as defined in § 3401(a), Internal
13 Revenue Code, and all other payments of compensation by the
14 county, in the course of the county's trade or business, for a
15 calendar year ending with or within the plan year for which
16 the county is required to furnish the member a written
17 statement under §§ 6041(d), 6051(a)(3), and 6052, Internal
18 Revenue Code. 415 compensation shall be determined without
19 regard to any rules under § 3401(a), Internal Revenue Code,
20 that limit the remuneration included in wages based on the
21 nature or location of the employment or the services
22 performed, such as the exception for agricultural labor in §
23 3401(a)(2), Internal Revenue Code. Notwithstanding the above,
24 the determination of 415 compensation shall be made by
25 including any elective deferral, as defined in § 402(g)(3),

1 Internal Revenue Code, and any amount which is contributed by
2 the county at the election of the member pursuant to a salary
3 reduction agreement and which is not includible in the gross
4 income of the member by reason of §§ 125, 132(f)(4),
5 402(e)(3), 402(h)(1)(B), 403(b), or 457(b), Internal Revenue
6 Code, and employee contributions described in § 414(h)(2),
7 Internal Revenue Code, that are treated as employer
8 contributions. For this purpose, effective January 1, 1998,
9 amounts not includible in gross income under § 125, Internal
10 Revenue Code, shall be deemed to include any amounts not
11 available to a member in cash in lieu of group health coverage
12 because the member is unable to certify that the member has
13 other health coverage, provided the county does not request or
14 collect information regarding the member's other health
15 coverage as part of the enrollment process for the health
16 plan.

17 "a. Compensation Paid After Severance from
18 Employment. With respect to limitation years beginning on and
19 after July 1, 2007, 415 compensation shall be adjusted for the
20 following types of compensation paid after a member's
21 severance from employment with the county, or any other entity
22 that is treated as the county pursuant to § 414(b), (c), (m),
23 or (o), Internal Revenue Code:

24 "1. The following amounts shall be included in 415
25 compensation to the extent these amounts are paid by the later

1 of two months after severance from employment or by the end of
2 the limitation year that includes the date of such severance
3 from employment:

4 "(i) Regular pay. 415 compensation shall include
5 regular pay after severance from employment if:

6 "A. The payment is regular compensation for services
7 during the member's regular working hours, or compensation for
8 services outside the member's regular working hours, such as
9 overtime or shift differential, commissions, bonuses, or other
10 similar payments; and

11 "B. The payment would have been paid to the member
12 prior to a severance from employment if the member had
13 continued in employment with the county.

14 "(ii) Leave cashouts. 415 compensation shall include
15 leave cashouts if those amounts would have been included in
16 the definition of 415 compensation if they were paid prior to
17 the member's severance from employment, and the amounts are
18 payment for unused accrued bona fide sick, vacation, or other
19 leave, but only if the member would have been able to use the
20 leave if employment had continued.

21 "(iii) Deferred compensation. 415 compensation shall
22 include deferred compensation if the compensation would have
23 been included in the definition of 415 compensation if it had
24 been paid prior to the member's severance from employment, and
25 the compensation is received pursuant to a nonqualified

1 unfunded deferred compensation plan, but only if the payment
2 would have been paid at the same time if the member had
3 continued in employment with the county and only to the extent
4 that the payment is includible in the member's gross income.

5 "2. The following amounts shall not be included in
6 415 compensation:

7 "(i) Salary continuation payments for military
8 service participants. 415 compensation does not include
9 payments to an individual who does not currently perform
10 services for the county by reason of qualified military
11 service to the extent those payments do not exceed the amounts
12 the individual would have received if the individual had
13 continued to perform services for the county rather than
14 entering qualified military service.

15 "(ii) Salary continuation payments for disabled
16 participants. 415 compensation does not include compensation
17 paid to a member who is permanently and totally disabled, as
18 defined in § 22(e)(3), Internal Revenue Code.

19 "b. Administrative Delay or the First Few Weeks
20 Rule. With respect to limitation years beginning on and after
21 July 1, 2007, 415 compensation does not include amounts earned
22 but not paid during the limitation year solely because of the
23 timing of pay periods and pay dates.

24 "c. Back Pay. With respect to limitation years
25 beginning on and after July 1, 2007, payments awarded by an

1 administrative agency or court or pursuant to a bona fide
2 agreement by the county to compensate a member for lost wages
3 are 415 compensation for the limitation year to which the back
4 pay relates, but only to the extent such payments represent
5 wages and compensation that would otherwise be included in 415
6 compensation.

7 "(27) INVESTMENT MANAGER. An entity that has the
8 power to manage, acquire, or dispose of plan assets and
9 acknowledges fiduciary responsibility to the plan in writing.
10 Such entity shall be a person, firm, or corporation registered
11 as an investment adviser under the Investment Advisers Act of
12 1940, a bank, or an insurance company.

13 "(28) INVOLUNTARY DEFERRED RETIREMENT BENEFIT. A
14 benefit payable pursuant to the terms of Section
15 45-37-123.100(c)(3).

16 "(29) IRC. The Internal Revenue Code of 1986, as
17 amended or replaced from time to time.

18 "(30) JOINT SURVIVORSHIP PENSION. Either a
19 preretirement joint survivorship pension or a postretirement
20 joint survivorship pension.

21 "(31) LIFE EXPECTANCY. As defined in Section
22 45-37-123.106(f)(5).

23 "(32) MEDICAL ADVISOR. The pension board's medical
24 advisors or other appointed physicians or vocational
25 specialists.

1 "(33) MEMBER. Any eligible employee who, depending
2 on the context as used throughout this plan, participates, or
3 participated, in the plan.

4 "(34) NONSERVICE CONNECTED DISABILITY. A total
5 disability or partial disability while the member is employed
6 by the county, that is not a service connected disability.

7 "(35) PAID MEMBERSHIP TIME. The time during which a
8 member made, or shall have made, employee contributions to the
9 system and other previous retirement systems, provided,
10 however, that if a member, for any reason, including
11 termination of employment, withdraws his or her employee
12 contributions, the period during which the employee
13 contributions are withdrawn shall be considered unpaid
14 membership time, unless it is converted to paid membership
15 time as provided for in Section 45-37-123.53. Paid membership
16 time also shall include a member's absence due to qualified
17 military service. Years of paid membership time shall be
18 calculated in accordance with Section 45-37-123.84.

19 "(36) PARTIAL DISABILITY. A permanent disability
20 that is less than a total disability determined in accordance
21 with Section 45-37-123.102(c).

22 "(37) PENSION BOARD. The administrator of the plan,
23 as more fully described in Subpart 2.

24 "~~(38) PENSION COORDINATOR. The individual designated~~
25 ~~by the pension board to manage the day-to-day administration~~

1 ~~of the system, including any other person who works for the~~
2 ~~system that acts as a designated agent of such individual.~~
3 ~~Such individual shall not be subject to the civil service~~
4 ~~system.~~

5 "~~(39)~~(38) PLAN or SYSTEM. The General Retirement
6 System for Employees of Jefferson County, which plan or system
7 may sue or be sued, and in such name all of its business shall
8 be transacted.

9 "~~(40)~~(39) PLAN YEAR. The plan's accounting year of
10 12 months commencing on January 1 of each year and ending the
11 following December 31.

12 "~~(41)~~(40) POSTRETIREMENT JOINT SURVIVORSHIP PENSION.
13 The benefit described in Section 45-37-123.101.

14 "~~(42)~~(41) PRERETIREMENT JOINT SURVIVORSHIP PENSION.
15 The benefit described in Section 45-37-123.103.

16 "~~(43)~~(42) PREVIOUS RETIREMENT SYSTEMS. The
17 retirement systems established by Acts 1953, No. 551, 1953
18 Regular Session (Acts 1953, p. 766), as amended, the
19 Employees' Retirement System of Jefferson County, and by Acts
20 1961, No. 843, 1961 Regular Session (Acts 1961, p. 1250), as
21 amended, the Employees General Retirement System of Jefferson
22 County.

23 "~~(44)~~(43) QUALIFIED MILITARY SERVICE. Except as
24 otherwise subsequently provided under § 414(u), Internal
25 Revenue Code, the performance of duty, on a voluntary or

1 involuntary basis, in a uniformed service under competent
2 authority, and includes active duty, active duty for training,
3 initial active duty for training, inactive duty training,
4 full-time national guard duty, a period for which a person is
5 absent from a position of employment for the purpose of an
6 examination to determine the fitness of the person to perform
7 any such duty, and a period for which a person is absent from
8 employment for the purpose of performing funeral honors duty.

9 "~~(45)~~ (44) REGULAR DEFERRED RETIREMENT BENEFIT. A
10 benefit payable pursuant to the terms of Section
11 45-37-123.100(c)(2).

12 "~~(46)~~ (45) REGULATION. The income tax regulations as
13 promulgated by the Secretary of the Treasury or a delegate of
14 the Secretary of the Treasury, as amended from time to time.

15 "~~(47)~~ (46) REQUIRED BEGINNING DATE. As defined in
16 Section 45-37-123.106(f)(6).

17 "~~(48)~~ (47) RETIRED MEMBER. An individual that
18 currently is receiving pension benefits from the system.

19 "~~(49)~~ (48) SERVICE CONNECTED DISABILITY. A total
20 disability or partial disability, caused by an accident
21 arising out of and in the course of a member's employment with
22 the county.

23 "~~(50)~~ (49) SERVICE RECORD. An employee's record of
24 service upon which the pension board bases all of the member's
25 benefit calculations, including records of the county.

1 "~~(51)~~ (50) SICK LEAVE RETIREMENT CONVERSION. A
2 program sponsored by the county or other entities set forth in
3 subdivision (20) wherein a member is paid for accumulated sick
4 leave time.

5 "~~(52)~~ (51) SUPERANNUATION RETIREMENT BENEFIT. A
6 benefit payable pursuant to the terms of subsection (a) of
7 Section 45-37-123.100.

8 "~~(53)~~ (52) SYSTEM or PLAN. The General Retirement
9 System for Employees of Jefferson County, which system or plan
10 may sue or be sued, and in such name all of its business shall
11 be transacted.

12 "(53) SPOUSE. The legal wife or husband of a member
13 as determined in accordance with federal law.

14 "(54) TOTAL DISABILITY. A permanent physical or
15 mental condition of a member resulting from bodily injury,
16 disease, or mental disorder which renders such member
17 incapable of continuing usual and customary employment with
18 the county. The disability of a member shall be determined by
19 a licensed medical advisor.

20 "(55) TRUSTEE. The pension board or the person or
21 entity appointed by the pension board and named as trustee
22 herein or in any separate trust forming a part of the plan,
23 and any successors.

24 "(56) TRUST FUND. The tax-qualified trust in which
25 certain plan funds are held, disbursed, transferred, and

1 invested by the trustee at the pension board's, or its
2 designated investment manager's, discretion and in accordance
3 with this part, the Internal Revenue Code, and other
4 applicable laws and regulation.

5 "(57) UNPAID MEMBERSHIP TIME.

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

7 "1. Time during which a member was employed by the
8 county, but the member did not make employee contributions to
9 the system and/or other previous retirement systems.

10 "2. Time during which a member withdrew employee
11 contributions for any reason, including upon a termination of
12 employment, unless this period of time is later converted to
13 paid membership time as provided for in Section 45-37-123.53.

14 "3. Time during which a person held an elective
15 office or was employed in a full-time job or position in the
16 service of any municipality, governmental agency, or
17 subdivision or held an elective office, provided that at the
18 time the person served with such municipality, governmental
19 agency, or subdivision, it was subject to the countywide civil
20 service law.

21 "b. Unpaid membership time shall not include any of
22 the following:

23 "1. Service with a municipality, governmental
24 agency, or subdivision if the employee received a pension from
25 such municipality, governmental agency, or subdivision, on

1 account of such service or if such service was considered in
2 the calculation of the pension.

3 "2. Any unpaid membership time that has been
4 converted to paid membership time.

5 "3. Any service in a temporary job or position, as
6 determined by the pension board.

7 "c. If such prior service with a municipality,
8 governmental agency, or subdivision was not an elective office
9 or in a classified position, such prior service shall not be
10 treated as unpaid membership time unless such employee
11 establishes to the satisfaction of the pension board that such
12 service was a full-time job.

13 "d. Only with respect to employees entering the
14 system on or before August 16, 1996, years of unpaid
15 membership time are used in computing accrued benefits under
16 the plan, as are months of unpaid membership time. Months are
17 converted into a fraction of a year as set forth in Section
18 45-37-123.84. Notwithstanding any provision of the plan to the
19 contrary, unpaid membership time shall not accrue after August
20 16, 1996, and shall not apply to members who initially join
21 the system, or members who rejoin the system after having
22 withdrawn, after August 16, 1996.

23 "(58) VESTED. The portion of a member's benefits
24 under the plan that generally are nonforfeitable. Subject to
25 Section 45-37-123.83, relating to failure to claim a refund of

1 employee contributions within the five-year period, a member's
2 benefit shall become nonforfeitable, or vested, upon the
3 following events:

4 "a. Partial or full termination of the plan as set
5 forth in Section 45-37-123.170; and

6 "b. Meeting the eligibility conditions for
7 entitlement to a benefit under Subpart 5.

8 "(59) WORKER'S COMPENSATION BENEFITS. Any benefit
9 paid to a member under any worker's compensation law of the
10 State of Alabama for any injury or disability suffered by such
11 member while working for the county on the job or position by
12 reason of which he or she is a member. Additionally, worker's
13 compensation benefits are included in compensation for
14 purposes of determining employee contributions pursuant to
15 Section 45-37-123.82. Worker's compensation benefits are
16 included in compensation for purposes of calculating a
17 retirement benefit only if inclusion of such worker's
18 compensation benefits produces a higher benefit than exclusion
19 of such worker's compensation benefits.

20 "§45-37-123.21.

21 "(a) General administration. The role of the pension
22 board is established by the State of Alabama through
23 legislative act. The pension board is responsible for the
24 general administration and proper operation of the plan. The

1 pension board also is responsible for making effective the
2 provisions of the act.

3 "(b) Composition of pension board. The pension board
4 is comprised of five members, designated respectively as
5 member number one, member number two, member number three,
6 member number four, and member number five.

7 "(1) MEMBER NUMBER ONE. Member number one shall be
8 appointed by the governing body of the county and shall serve
9 as chairman of the pension board. Member number one shall have
10 a minimum of 10 years' experience in an executive capacity in
11 insurance, investment management/consultant, or actuarial
12 work. The initial term of member number one shall be for one
13 year; and thereafter the term of member number one shall be
14 for three years.

15 "(2) MEMBER NUMBER TWO. Member number two shall be
16 appointed by the judge of probate, who is an elected official
17 of the county. Member number two shall have a minimum of 10
18 years' experience in an executive capacity in investing or
19 banking. The initial term of member number two shall expire at
20 the end of two years; and thereafter the term of member number
21 two shall be for three years.

22 "(3) MEMBER NUMBER THREE. Member number three shall
23 be ~~elected~~ appointed by the Jefferson County Personnel Board.
24 Member number three shall have a minimum of 10 years'
25 experience as a certified public accountant. The initial term

1 of member number three shall expire at the end of three years;
2 and the term of member number three shall be for three years.

3 "(4) MEMBERS NUMBER FOUR AND FIVE. Member number
4 four and member number five shall be elected by the ~~active and~~
5 ~~retired~~ members of the system. Member number four shall be a
6 retired member of the system. Member number five shall be a
7 member of the system. The initial term of member number four
8 shall be for one year; and thereafter the term of member
9 number four shall be for three years. Member number five shall
10 be elected for terms of three years.

11 "(c) Procedure for the election of board members
12 four and five and selection of the election board.

13 "(1) Elections of member number four and member
14 number five shall be conducted by separate paper or electronic
15 ballot.

16 "(2) The ~~active and retired~~ members of the system
17 shall elect member number four and member number five. The
18 election shall be held at the annual meeting of the members of
19 the system provided for in Section 45-37-123.22(b)(14), or at
20 a special meeting called for that purpose; provided that there
21 shall be no such election at a special meeting unless the
22 pension board has given at least 15 days' written notice of
23 the time and place of the election by posting the same in at
24 least three prominent places in the county courthouse and by
25 delivering three copies of the same to ~~each elected official~~

1 ~~of the county manager who shall inform all persons on the~~
2 ~~county payroll to enable these officials to inform their~~
3 ~~employees~~ of the election; however, the failure of ~~any elected~~
4 ~~official~~ to inform ~~his or her~~ all such employees of the
5 election shall not invalidate the election.

6 "(3) The elections of member number four and member
7 number five shall be supervised by three ~~active~~ members of the
8 system serving as the election board. The members that serve
9 as the election board shall be appointed by the ~~active members~~
10 ~~and retired~~ members of the system at the annual meeting as
11 provided for in Section 45-37-123.22 (b) (14). If the ~~active~~
12 ~~members and retired~~ members of the system fail to appoint
13 members to the election board, or if any member so appointed
14 cannot or will not serve on the election board, the pension
15 board shall appoint the members of the election board. The
16 pension board shall have the authority to prescribe additional
17 rules and regulations for the elections of member number four
18 and member number five not inconsistent with the provisions
19 hereof.

20 "(d) Vacancy, how filled. If a vacancy occurs on the
21 pension board, such vacancy shall be filled for the unexpired
22 term in the same manner as the office was previously filled.

23 "(e) Resignation or removal of pension board member.
24 A member of the pension board may resign by delivering a
25 written resignation to the ~~pension board~~ Executive Director or

1 be removed by the unanimous vote of the other members of the
2 pension board at a duly called meeting of the pension board ~~by~~
3 ~~delivery of written notice of removal, to take effect at a~~
4 ~~date specified therein, or upon delivery to the pension board~~
5 ~~if no date is specified.~~

6 "(f) Secretary. The secretary of the board shall be
7 the Executive Director ~~director of personnel of the county, or~~
8 ~~his or her designated agent; however, in the event that the~~
9 ~~director of personnel fails to act as secretary and fails to~~
10 ~~appoint an agent to serve such role, then the pension~~
11 ~~coordinator shall serve as the secretary.~~

12 "(g) Salary and expenses. The members of the pension
13 board ~~and the secretary~~ shall serve without pay, but shall be
14 reimbursed for expenses actually paid or incurred in the
15 discharge of their official duties, and shall suffer no loss
16 of salary or wages, if employed by the county, through service
17 on the board ~~or as secretary thereof.~~

18 "§45-37-123.22.

19 "(a) The pension board shall be responsible for the
20 general administration and proper operation of the plan, and
21 shall administer the plan for the exclusive benefit of the
22 members and their beneficiaries, subject to the specific terms
23 of the plan. The pension board shall administer the plan in
24 accordance with its terms and shall have the power and
25 discretion to construe the terms of the plan and the act and

1 to determine all questions arising in connection with the
2 administration, interpretation, and application of the plan.
3 Any such determination by the pension board shall be
4 conclusive and binding upon all persons. The pension board may
5 establish procedures, correct any defect, supply any
6 information, or reconcile any inconsistency in such manner and
7 to such extent as shall be deemed necessary or advisable to
8 carry out the purpose of the plan; provided, however, that any
9 procedure, discretionary act, interpretation, or construction
10 shall be done in a nondiscriminatory manner based upon uniform
11 principles consistently applied and shall be consistent with
12 the intent that the plan shall continue to be deemed a
13 qualified plan under the terms of § 401(a), Internal Revenue
14 Code, and shall comply with the terms of the act and all
15 regulations issued pursuant thereto. The pension board shall
16 have all powers necessary or appropriate to accomplish the
17 pension board's duties under the plan.

18 "(b) The pension board shall be charged with the
19 duties of the general administration of the plan as set forth
20 under the terms of the plan, including, but not limited to,
21 the following:

22 "(1) To determine all questions relating to the
23 eligibility of employees to participate or remain a member
24 hereunder and to receive benefits under the plan;

1 "(2) To compute and certify the amount and the kind
2 of benefits to which any member shall be entitled hereunder;

3 "(3) To maintain all necessary records for the
4 administration of the plan;

5 "(4) To interpret the provisions of the plan and to
6 make and publish such rules for regulation of the plan as are
7 consistent with the act and the terms hereof;

8 "(5) To establish rules and regulations for the
9 administration of plan funds and for the transaction of the
10 plan's business;

11 "(6) To exercise any investment discretion in a
12 manner designed to accomplish specific objectives related to
13 the plan's long-term and short-term liquidity needs;

14 "(7) To prepare and provide active members with an
15 annual estimated benefit statement notifying them of their
16 estimated benefits;

17 "(8) To prepare and provide retired members with a
18 one-time notification of their benefit payment amounts, and to
19 provide retired members with periodic notification of cost of
20 living benefit increases which may be awarded by the pension
21 board in any form, lump sum, or otherwise;

22 "(9) To determine the validity of, and take
23 appropriate action with respect to, any ~~qualified domestic~~
24 ~~relations order,~~ divorce decree, or other judicial order
25 presented to ~~the county or~~ the pension board;

1 "(10) To assist any member regarding the member's
2 rights, benefits, or elections available under the plan;

3 "(11) To, by written agreement or designation,
4 appoint at its option an investment manager, qualified under
5 the Investment Company Act of 1940, as amended, investment
6 adviser, or other agent to provide direction regarding any or
7 all of the plan assets. Such appointment shall specifically
8 identify the plan assets with respect to which the investment
9 manager or other agent shall have authority to direct the
10 investment;

11 "(12) To establish an investment policy;

12 "(13) To establish a privacy policy for the
13 protection of a member's personal information, subject to
14 applicable law;

15 "(14) To hold an annual meeting of the members at
16 least once per calendar year and provide at least seven days'
17 written notice of the meeting to all members at either their
18 place of work or last known address or by electronic mail;

19 "(15) To determine appropriate rules and regulations
20 to determine how much service per calendar year is equivalent
21 to one year of service, in accordance with Section
22 45-37-123.84;

23 "(16) To develop rules and regulations, amend the
24 plan, subject to the provisions of Section 45-37-123.150, and

1 provide for increases in benefits, subject to the provisions
 2 of Section 45-37-123.151; and

3 "(17) Notwithstanding any provisions of the plan to
 4 the contrary, to amend the plan in order to comply with
 5 federal law, and any such amendment shall be given full effect
 6 under Alabama law.

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

9 "(19) To provide employees of the system with
 10 health, dental, vision, and other forms of insurance, paid
 11 vacation, and sick leave, and any other benefits as determined
 12 by the pension board.

13 "(20) To provide members of the system with
 14 voluntary life, disability, and other forms of insurance, the
 15 cost of which is paid by the member.

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

19 "§45-37-123.24.

20 "The pension board may allocate responsibilities
 21 among the members of the pension board and/or may delegate
 22 responsibilities to third parties. ~~The county attorney shall~~
 23 ~~be the legal advisor of the pension board.~~ The pension board
 24 may employ, appoint, or contract with additional employees,
 25 administrators, managers, counsel, specialists, advisers,

1 agents, including nonfiduciary agents, and other persons as
2 the pension board or the trustee deems necessary or desirable
3 in connection with the administration of the plan, including,
4 but not limited to, agents and advisers to assist with the
5 administration and management of the plan, and thereby to
6 provide, among such other duties as the pension board may
7 appoint, assistance with maintaining plan records and the
8 providing of investment information to the plan's investment
9 fiduciaries, and none of such persons shall be subject to the
10 civil service system.

11 "§45-37-123.53.

12 "(a) Commission-authorized conversions. The
13 commission, from time to time, may authorize members of the
14 system to convert unpaid membership time to paid membership
15 time if it determines that such conversion is in the public
16 interest. Unpaid membership time may be converted to paid
17 membership time only when specifically authorized by the
18 commission, and as set forth below.

19 "(b) Pension board authorized conversions. The
20 pension board, from time to time, may authorize members of the
21 system to convert unpaid membership time to paid membership
22 time if it determines that the conversion is in the best
23 interest of the system. The conversion shall be conducted as
24 set forth below.

1 "(1) ACTUARIAL STUDY AND CALCULATIONS. Before an
2 opportunity to convert unpaid membership time to paid
3 membership time shall be made available to any members, the
4 pension board shall cause and the county shall pay for an
5 actuarial evaluation to be performed on the system to ensure
6 that the system is able to financially support the conversion
7 and to determine the amounts that shall be contributed to the
8 system by members seeking to convert unpaid membership time,
9 including the amount of any deficiency of deductions, as
10 described below.

11 "(2) CONTRIBUTIONS TO FUND CONVERSION.

12 "a. In order to convert unpaid membership time to
13 paid membership time, a member shall contribute to the trust
14 fund an amount equal to:

15 "1. Six percent of his or her current salary for
16 each year of service being converted, including the amount of
17 interest and other earnings these amounts would have earned
18 had they been paid into the trust fund at that time; plus

19 "2. The amount that the county would have paid into
20 the trust fund as employer contributions, such as an
21 additional six percent of his or her current salary, for each
22 year of service being converted, including the amount of
23 interest and other earnings these amounts would have earned
24 had they been paid into the trust fund at that time; plus

1 "3. Any additional amount necessary to match the
2 member's liability as to his or her deficiency of deductions,
3 as described below, including interest ~~hereon~~ thereon.

4 "b. Deficiency of deductions shall mean any
5 remaining liability of a member resulting from his or her
6 election to convert unpaid membership time to paid membership
7 time which still exists after the payments in subparagraph 1.
8 of paragraph a. and subparagraph 2. of paragraph a. are made
9 and which are needed to make the system actuarially sound.

10 "(3) RULES AND REGULATIONS. The commission, ~~and/or~~
11 ~~its designated agent, which may include~~ the pension board, may
12 establish rules and regulations governing any conversion
13 opportunity, including, but not limited to, the time that the
14 conversion is available, the amount of unpaid membership time
15 that may be converted to paid membership time and any amounts
16 required to be paid by members in order to convert unpaid
17 membership time. Any such rules and regulations shall apply
18 uniformly to all members of the system in the same class and
19 shall be approved by the pension board before any conversion
20 opportunity may begin. The commission, or its designated
21 agent, may amend or repeal any such rules and regulations at
22 any time ~~in its sole discretion~~.

23 "~~(b)~~ (c) Correction of records. The pension board has
24 the authority to allow the conversion of unpaid membership
25 time in order to correct personnel or recordkeeping errors.

1 "~~(c)~~(d) No employer contributions required. Nothing
2 in the plan shall be construed as requiring the county, the
3 system, or the pension board in any case to match
4 contributions by members converting unpaid membership time to
5 paid membership time.

6 "§45-37-123.54.

7 "If a member of the system severs employment with
8 the county or his or her term in an elected or appointed job
9 or position terminates, and such member thereafter returns to
10 the service of the county, he or she shall become a member of
11 the system to the extent he or she meets the definition of an
12 eligible employee, subject to the following rules:

13 "(1) MEMBER RECEIVING A PENSION BENEFIT. If a member
14 is receiving his or her pension benefit on account of
15 retirement and such member returns to the service of the
16 county, any amount otherwise payable by the system to such
17 member on account of such member's retirement shall be reduced
18 by the amount, if any, paid or payable to such member by the
19 county on account of or by reason of the reemployment of such
20 member. At the time the member thereafter severs employment
21 with the county, such member's pension benefit shall return to
22 the amount it was prior to the member's reemployment.
23 Accordingly, notwithstanding subdivisions (3) and (4), such a
24 member shall not accrue any additional pension benefit during
25 his or her period of rehire.

1 "(2) MEMBER ELECTED A DEFERRED RETIREMENT. If a
 2 vested member who severed employment with the county and
 3 elected a deferred retirement benefit is reemployed by the
 4 county before age 60, his or her election for a deferred
 5 retirement benefit shall be rescinded, and he or she shall
 6 ~~rejoin the system in accordance with Sections 45-37-123.50 and~~
 7 ~~45-37-123.82~~ and begin to accrue benefits again upon the date
 8 of reemployment. Such member's benefit shall be calculated by
 9 aggregating the member's credited service during all periods
 10 of employment.

11 "(3) MEMBER DOES NOT RECEIVE A REFUND AND IS
 12 REEMPLOYED WITHIN FIVE YEARS. Except as set forth in
 13 subdivision (1), if a member, ~~vested or nonvested~~, who severed
 14 employment with the county but did not receive a refund of his
 15 or her employee contributions to the system as provided in
 16 Section 45-37-123.104, is reemployed by the county within five
 17 years of such severance from employment, he or she shall
 18 ~~rejoin the system in accordance with Sections 45-37-123.50 and~~
 19 ~~45-37-123.82~~ and begin to accrue benefits again upon the date
 20 of reemployment. Such member's benefit shall be calculated by
 21 aggregating the member's credited service during all periods
 22 of employment.

23 "(4) MEMBER RECEIVED A REFUND OR FORFEITED PENSION
 24 BENEFIT. Except as set forth in subdivision (1), if a member,
 25 ~~vested or nonvested~~, who severed employment with the county

1 and received a refund of his or her employee contributions to
2 the system as provided in Section 45-37-123.104, or ~~forfeited~~
3 ~~his or her employee contributions, such as pursuant to Section~~
4 ~~45-37-123.83,~~ does not receive a refund within five years
5 after severing from employment, is reemployed by the county,
6 he or she shall rejoin the system in accordance with Sections
7 45-37-123.50 and 45-37-123.82 and begin to accrue benefits
8 again upon the date of reemployment. In calculating such
9 member's benefit, only credited service rendered after the
10 member is rehired shall be included.

11 "§45-37-123.82.

12 "(a) Employee contributions generally. As a
13 condition of employment and of accruing benefits under the
14 plan, each member shall contribute six percent of such
15 member's compensation to the plan ~~through after tax salary~~
16 ~~deferrals.~~ The employee contributions shall be after tax, or
17 if approved by the pension board such employee contributions
18 shall be pre-tax and treated as "picked-up" and contributed by
19 the county to the plan pursuant to Section 414(h)(2) of the
20 Internal Revenue Code. The county shall ~~withhold~~ process such
21 employee contributions each payroll period and the aggregate
22 amount ~~so deducted~~ shall be ~~paid over to the treasurer of the~~
23 ~~system for deposit~~ deposited in the trust fund. Employee
24 contributions shall begin on the member's first paycheck after
25 a member becomes eligible for membership in the system as

1 provided for in Section 45-37-123.50. In the event that the
2 county fails to withhold any employee contributions, the
3 county may withhold such amounts, whether treated by the
4 county as after-tax contributions or treated as "picked-up"
5 contributions, from future paychecks as are necessary to
6 restore the amounts not withheld.

7 "(b) Withdrawal or refunds of employee
8 contributions. Employee contributions may be withdrawn or
9 refunded only as provided in Section 45-37-123.104.

10 "(c) Cessation of employee contributions.

11 ~~"(1) PARTICIPATION IN ANOTHER PENSION SYSTEM. A~~
12 ~~member may terminate employee contributions if he or she~~
13 ~~becomes a member of another pension system, as further~~
14 ~~provided in Section 45-37-123.104(3).~~

15 ~~"(2) ACCRUAL OF MAXIMUM BENEFIT. A member may~~
16 ~~terminate employee contributions when the member's service~~
17 ~~entitles him or her to receive the maximum benefit available~~
18 ~~under the plan after 30 years of paid service, as further~~
19 ~~provided in Section 45-37-123.104(4).~~

20 "§45-37-123.101.

21 "(a) Election of postretirement joint survivorship
22 pension. In lieu of a benefit under subsections (a) to (c),
23 inclusive, of Section 45-37-123.100, superannuation retirement
24 benefit, early retirement benefit, or deferred retirement

1 benefit, respectively, a member may elect to receive a
2 postretirement joint survivorship pension.

3 "(1) PERCENTAGE ELECTION. In the event that a member
4 desires to elect, pursuant to this subsection to receive a
5 postretirement joint survivorship pension, he or she shall
6 elect one of the following percentages, which election shall
7 be the actuarial equivalent of the monthly retirement benefit
8 provided in subsections (a) to (c), inclusive, of Section
9 45-37-123.100, as applicable:

10 "a. Reduced monthly benefit payable over the life of
11 the member and the life of the member's designated
12 beneficiary, 50 percent postretirement joint survivorship
13 pension;

14 "b. Reduced monthly benefit payable over the life of
15 the member and the life of the member's designated
16 beneficiary, 66 and two-thirds percent postretirement joint
17 survivorship pension;

18 "c. Reduced monthly benefit payable over the life of
19 the member and the life of the member's designated
20 beneficiary, 75 percent postretirement joint survivorship
21 pension; or

22 "d. Reduced monthly benefit payable over the life of
23 the member and the life of the member's designated
24 beneficiary, 100 percent postretirement joint survivorship
25 pension.

1 "(2) FORM OF POSTRETIREMENT JOINT SURVIVORSHIP
2 PENSION. In addition to electing a percentage under
3 subdivision (1), a member who desires to elect to receive a
4 postretirement joint survivorship pension shall elect one of
5 the following two forms:

6 "a. Pop-up Form. Under the pop-up form, if the
7 member's beneficiary predeceases the retired member, then in
8 the month following the beneficiary's death, the member's
9 monthly pension benefit shall pop-up to the amount that would
10 have been payable to the member under subsections (a) to (c),
11 inclusive, of Section 45-37-123.100, as applicable, as if the
12 member had never elected a postretirement joint survivorship
13 pension; the cost of a pop-up form is more than the cost of
14 the regular form described in paragraph b.

15 "b. Regular Form. Under the regular form, if the
16 member's beneficiary predeceases the retired member, then the
17 member shall continue to receive the same amount that he or
18 she was receiving prior to the beneficiary's death. The amount
19 of the benefit payment shall not change.

20 "(b) Timing of election. Except as provided in the
21 immediately following sentence, in the event that a member
22 desires to elect a postretirement joint survivorship pension,
23 he or she shall do so in writing, on a form provided by the
24 pension board, no later than the member's last day of
25 employment. In the event that a member previously elected a

1 deferred retirement benefit and desires to elect a
2 postretirement joint survivorship pension, he or she shall do
3 so in writing, on a form provided by the pension board, no
4 later than the day before the member's sixtieth birthday.

5 "(c) Timing of payments. Payment to the member
6 commences on the day after the member terminates employment
7 and shall continue to be paid each month thereafter until the
8 member's death. If the member's beneficiary survives after the
9 death of the member, the postretirement joint survivorship
10 pension payments shall be made monthly to the beneficiary,
11 beginning on the first day of the month following the member's
12 death, assuming that the pension board is notified of the
13 death in a timely manner. Payments shall terminate with the
14 first monthly payment preceding the second to die of the
15 member and the beneficiary. In the event that a refund is to
16 be paid pursuant to Section 45-37-123.104(5)c., such payment
17 shall be made as soon as administratively feasible following
18 the member's/beneficiary's deaths.

19 "(d) Cost of postretirement joint survivorship
20 pension. To the extent that a member elects payment of a
21 postretirement joint survivorship pension for his or her
22 beneficiary, the benefit otherwise payable to the member shall
23 be actuarially reduced to reflect the survivorship benefits.

24 "(e) Changes in election. At any time before ~~payment~~
25 ~~of a postretirement joint survivorship pension begins~~

1 termination of employment, the member may cancel his or her
2 election to have payment in such form by completing a form
3 provided by the pension board. Except as otherwise stated
4 herein, the member's election of a postretirement joint
5 survivorship pension shall be irrevocable once the member
6 terminates employment.

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

11 "b. Death of Beneficiary Before Payments Commence.
12 In the event that a member elects a postretirement joint
13 survivorship pension and his or her beneficiary dies before
14 payments commence, then upon the beneficiary's death, the
15 member's election of the postretirement joint survivorship
16 pension shall be automatically canceled, and the member's
17 right to receive payments in accordance with subsections (a)
18 to (c), inclusive, of Section 45-37-123.100, as applicable,
19 shall be reinstated.

20 "c. Death of Both Member and Beneficiary-Refund.
21 Except as provided in the immediately following sentence, in
22 the event that a payment begins to the member, no refund of
23 employee contributions shall be paid thereafter.

24 Notwithstanding the foregoing sentence, in the event that the

1 member and his or her beneficiary die, a refund shall be made
2 in accordance with Section 45-37-123.105(4)c.

3 "(2) DIVORCE. In the event that a married member
4 names his or her spouse as beneficiary, a subsequent divorce
5 of the member and the beneficiary shall not cancel an election
6 of a postretirement joint survivorship pension. However, in
7 the event that a member or beneficiary presents to the pension
8 board what the pension board believes to be a valid divorce
9 decree, settlement agreement, or domestic relations order,
10 collectively, a DRO, that provides for a waiver or forfeiture
11 of the postretirement joint survivorship pension, then such
12 waiver or forfeiture shall be recognized by the pension board,
13 and, accordingly, the postretirement joint survivorship
14 pension shall be deemed void, and the member's monthly pension
15 benefit shall thereafter pop-up to the amount that would have
16 been payable to the member under subsections (a) to (c) of
17 Section 45-37-123.100, as applicable, as if the member had
18 never elected a postretirement joint survivorship pension.
19 Such pop-up shall occur in the month following the pension
20 board's receipt and approval of the DRO. The member shall not
21 be allowed to continue any survivor benefits by designating
22 another beneficiary. See also Section 45-37-123.194(a) for
23 additional rules relating to certain DROs.

24 "(f) Beneficiary designation. Any beneficiary
25 designation made by a member for a preretirement joint

1 survivorship pension shall automatically lapse upon the
2 member's retirement or other termination of employment, and
3 such member shall complete new forms, to be provided by the
4 pension board, to designate a beneficiary of any
5 postretirement joint survivorship pension, in accordance with
6 Section 45-37-123.103(d).

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

10 "§45-37-123.103.

11 "(a) Preretirement death benefits. A vested member's
12 beneficiary is entitled to a preretirement joint survivorship
13 pension, as described below.

14 "(1) MARRIED MEMBER. If a married, active member
15 dies, then the beneficiary may elect, on a form provided by
16 the pension board, to be paid in one of the following forms:

17 "a. One Hundred Percent Preretirement Joint
18 Survivorship Pension. If such member was eligible for a
19 deferred retirement benefit at the time of the member's death,
20 then the beneficiary may elect to be paid in the form of a 100
21 percent preretirement joint survivorship pension, which is a
22 monthly annuity paid during the beneficiary's lifetime which
23 is equal to the actuarial equivalent of the benefits that
24 would have been paid to the member if, instead of dying, the
25 member had terminated employment; or

1 "b. Refund. The beneficiary may elect a refund of
2 the member's employee contributions in accordance with Section
3 45-37-123.104(5)b.

4 "(2) UNMARRIED MEMBER. If an unmarried, active
5 member dies, then the following shall apply:

6 "a. Preretirement Joint Survivorship Pension. If a
7 member becomes eligible for a deferred retirement benefit,
8 then the member may elect, on a form provided by the pension
9 board, a 100 percent preretirement joint survivorship pension,
10 which is a monthly annuity paid during the beneficiary's
11 lifetime which is equal to the actuarial equivalent of the
12 benefits that would have been paid to the member if, instead
13 of dying, the member had terminated employment. In the event
14 the beneficiary dies before the member or in the event the
15 member marries, any election of a preretirement joint
16 survivorship pension automatically shall be revoked and the
17 cost, as described in subdivision (2) of subsection (c), for
18 the preretirement coverage shall cease to accumulate on the
19 date of death of the beneficiary or the member's date of
20 marriage, as applicable.

21 "b. Refund. Regardless of whether the member makes
22 an election for the beneficiary to be paid in the form of a
23 preretirement joint survivorship pension in accordance with
24 paragraph a., upon the member's death, the beneficiary can
25 elect to be paid a refund of the member's employee

1 contributions in accordance with Section 45-37-123.104(5)b.
2 instead of being paid a preretirement joint survivorship
3 pension.

4 "(b) Timing of payments. In the event of an election
5 of a preretirement joint survivorship pension, such payment
6 shall begin as soon as administratively feasible after the
7 pension board is notified of the death. In any event,
8 calculation of the amount of the death benefit shall be made
9 as of the day after the date of death and any payments that do
10 not occur as of the month following the date of death shall be
11 included in future payments. In the event that a refund is to
12 be paid, such payment shall be made as soon as
13 administratively feasible following the member's death.

14 "(c) Cost of preretirement joint survivorship
15 pension.

16 "(1) MARRIED MEMBERS.

17 "a. On and After October 1, 1999. On and after
18 October 1, 1999, the 100 percent preretirement joint
19 survivorship pension shall be provided without additional
20 charge with respect to a member who is married at the time of
21 his or her death, and the cost of such benefit shall be borne
22 by the system; however, in the event that a member designates
23 a non-spousal beneficiary in accordance with subdivision
24 (d) (1), the cost of such benefit shall be borne by the ~~member~~
25 member's beneficiary.

1 "b. Prior to October 1, 1999. Prior to October 1,
2 1999, a 50 percent preretirement joint survivorship pension
3 was provided to a member who was married at the time of his or
4 her death, instead of 100 percent, and such members and their
5 beneficiaries had an option to elect higher percentages under
6 certain rules. Members and beneficiaries who elected a higher
7 than 50 percent preretirement joint survivorship pension prior
8 to October 1, 1999, shall be charged for the increased
9 percentage according to actuarially-calculated costs,
10 beginning with the date of the election through September 30,
11 1999.

12 "(2) UNMARRIED MEMBERS. To the extent that a member
13 who is not married at the time of his or her death previously
14 elected payment of a preretirement joint survivorship pension
15 for his or her beneficiary, the benefit otherwise payable to
16 the member shall be actuarially reduced to reflect the
17 survivorship benefits.

18 "(d) Beneficiaries.

19 "(1) PRERETIREMENT JOINT SURVIVORSHIP PENSION FOR A
20 MARRIED MEMBER. Unless otherwise elected in the manner
21 prescribed below, the beneficiary of a preretirement joint
22 survivorship pension of a member that is married at the time
23 of his or her death shall be the member's surviving spouse.
24 Except, however, a member may designate a beneficiary other
25 than the spouse if:

1 "a. The spouse has waived the right to be the
2 member's beneficiary; or

3 "b. The member has been abandoned, within the
4 meaning of local law, and the member has a court order to such
5 effect; or

6 "c. The member has no spouse.

7 "(2) ALL OTHER DEATH BENEFITS. Except as provided in
8 subdivision (1), a member, whether married or not, may
9 designate any beneficiary, and may do so without the need of
10 the consent of a spouse for a nonspousal beneficiary
11 designation.

12 "(3) FORMS. Designation of a beneficiary shall be
13 made on a form provided by the pension board. A member may at
14 any time revoke a designation of a beneficiary or change a
15 beneficiary by filing written notice of such revocation or
16 change with the pension board on a form provided by the
17 pension board. However, in the case of a preretirement joint
18 survivorship pension, the member's spouse shall again consent
19 in writing to any change in beneficiary unless the original
20 consent acknowledged that the spouse had the right to limit
21 consent only to a specific beneficiary and that the spouse
22 voluntarily elected to relinquish such right. For a spouse's
23 waiver to be valid, the signature of the spouse executing such
24 form shall be notarized. This consent to waiver shall become
25 irrevocable upon the death of the member.

1 "(4) FAILURE TO DESIGNATE A BENEFICIARY OR LACK OF
2 BENEFICIARY. In the event no valid designation of beneficiary
3 exists, or if the beneficiary is not alive at the time of the
4 member's death, the death benefit shall be payable to the
5 member's spouse if there is a spouse, and if there is no
6 spouse, to the member's estate. If there is no estate, the
7 death benefit may be interpleaded into a court of competent
8 jurisdiction. Additionally, if the beneficiary does not
9 predecease the member, but dies prior to the distribution of
10 the death benefit, the death benefit shall be paid to the
11 beneficiary's estate. If there is no estate, the death benefit
12 may be interpleaded into a court of competent jurisdiction.

13 "(5) MORE THAN ONE BENEFICIARY. In the event that
14 more than one primary beneficiary is designated and a
15 designated primary beneficiary dies, absent any direction on
16 the beneficiary designation form to the contrary, the member's
17 benefit shall be divided equally among the remaining primary
18 beneficiaries.

19 "(6) DESIGNATION OF NONPERSONS AS BENEFICIARIES. A
20 member may designate a nonperson as a beneficiary, for
21 example, a trust or estate. In such event, the pension board
22 may require additional documentation for example, trust
23 documents.

24 "(7) LAPSE OF BENEFICIARY DESIGNATION. Any
25 beneficiary designation made by a member for a preretirement

1 joint survivorship pension or refund shall automatically lapse
2 upon the member's election of a postretirement joint
3 survivorship pension; at that time, the member shall complete
4 new forms, to be provided by the pension board, to designate a
5 beneficiary of any postretirement joint survivorship pension.

6 "(8) EFFECT OF MARRIAGE OR DIVORCE UPON A
7 BENEFICIARY DESIGNATION. Except in the case of a preretirement
8 joint survivorship pension, marriage or divorce does not
9 change any previous beneficiary designation. In the case of a
10 preretirement joint survivorship pension, if an unmarried
11 member gets married, such member's spouse shall automatically
12 become the member's beneficiary, which can thereafter be
13 waived in accordance with subdivision (1).

14 "(9) DISTRIBUTION FOR MINOR OR INCOMPETENT
15 BENEFICIARY. In the event a distribution is to be made to a
16 minor or incompetent beneficiary, then the pension board may
17 direct that such distribution be paid to the legal guardian,
18 or if none in the case of a minor beneficiary, to a parent of
19 such beneficiary or a responsible adult with whom the
20 beneficiary maintains residence, or to the custodian for such
21 beneficiary under the Uniform Gift to Minors Act or Gift to
22 Minors Act, if such is permitted by the laws of the state in
23 which the beneficiary resides. Such a payment to the legal
24 guardian, custodian, or parent of a minor beneficiary shall
25 fully discharge the trustee, the county, the pension board and

1 the plan from further liability on account thereof. The
2 pension board may require evidence of guardianship, existence
3 of custodial accounts, or any other documentation that is
4 deemed prudent to establish that payment shall be made
5 properly.

6 "(e) Other death benefits. Upon a member's
7 retirement or other termination of employment, any
8 preretirement joint survivorship pension benefit coverage
9 ceases. Any other benefits to be paid upon the death of a
10 member or beneficiary, such as refunds, are governed by
11 Section 45-37-123.104(5).

12 "(f) Proof of death and marriage. The pension board
13 may require such proper proof of death and marriage and such
14 evidence of the right of any person to receive the death
15 benefit payable as a result of the death of a member as the
16 pension board may deem desirable. Such proof may include a
17 certified marriage certificate, certified death certificate of
18 the member, and affidavits of relatives, members, or other
19 persons knowledgeable of the fact of marriage. If no marriage
20 certificate is available and for common law marriage, proof
21 shall include evidence of the existence of the marriage as may
22 be required by law and also may require indemnification and
23 hold harmless agreements. The pension board may require that
24 unclear cases be adjudicated in an appropriate court
25 proceeding. An unmarried member may be required by the pension

1 board to sign an affidavit to certify that such member is not
2 married. The pension board's determination of death benefits
3 and the right of any person to receive payment shall be
4 conclusive.

5 "§45-37-123.104.

6 "The following provisions generally govern a
7 member's withdrawal and refund of employee contributions under
8 the plan. Any member who fails to make application for the
9 amount of his or her employee contributions pursuant to this
10 section within five years after his or her separation from the
11 service of the county, except as otherwise provided herein or
12 otherwise determined by the pension board, shall be deemed to
13 have forfeited and donated such employee contributions to the
14 trust fund pursuant to Section 45-37-123.83. The foregoing
15 five year rule only applies to a member; in the case of a
16 beneficiary, the pension board may only forfeit employee
17 contributions after it has exhausted reasonable efforts to
18 locate the beneficiary.

19 "(1) WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS BY MEMBERS
20 NOT ENTITLED TO A DEFERRED RETIREMENT BENEFIT. In the event
21 that a member ceases to be an employee of the county for
22 reasons other than retirement, death, or disability before he
23 or she is eligible for a deferred retirement benefit, such
24 member, upon written application therefore to the pension

1 board, shall be paid the full amount of his or her employee
2 contributions, without interest.

3 "(2) WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS BY MEMBERS
4 ENTITLED TO A DEFERRED RETIREMENT BENEFIT.

5 "a. General Rule. Subject to the limitations stated
6 in paragraph b., in the event that a member ceases to be an
7 employee of the county for reasons other than retirement,
8 death, or disability when he or she is eligible for a deferred
9 retirement benefit, but has not elected a deferred retirement
10 benefit, such member, upon written application therefore to
11 the pension board, shall be paid the full amount of his or her
12 employee contributions, with interest. The provisions of
13 Section 45-37-123.100(c)(1)b. shall govern the withdrawal of
14 employee contributions for any member who has elected a
15 deferred retirement benefit, but has not yet been paid.

16 "b. Rules and Regulations. The pension board shall
17 establish by rules and regulations setting forth the amount of
18 interest which is payable to members under this subdivision.
19 In establishing such rules and regulations, the pension board
20 shall take into consideration the interest the system has
21 earned on the employee contributions paid into the trust fund
22 on account of the member withdrawing such employee
23 contributions. The pension board may amend such rules and
24 regulations at any time in its sole discretion.

1 ~~"(3) WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS BY MEMBERS~~
2 ~~WHO BECOME MEMBERS OF ANOTHER PENSION SYSTEM. If a member~~
3 ~~becomes a member of another pension system, such member shall~~
4 ~~have the right to withdraw from the plan. In order to~~
5 ~~accomplish such withdrawal, such member shall deliver to the~~
6 ~~pension board a written notice of his or her election to~~
7 ~~withdraw from the plan, which notice shall include the name of~~
8 ~~such other pension system which such member is electing to~~
9 ~~join and shall identify the act creating it. If the pension~~
10 ~~board determines that such member is entitled to withdraw from~~
11 ~~the plan, the member shall no longer be a member of the plan~~
12 ~~and employee contributions by him or her and by the county on~~
13 ~~his or her behalf to the trust fund shall cease. If the~~
14 ~~pension board finds that before such member delivered the~~
15 ~~aforsaid notice to the pension board, he or she had not~~
16 ~~become entitled to elect a deferred retirement benefit, the~~
17 ~~pension board shall return to such member the full amount of~~
18 ~~his or her employee contributions, without interest. If the~~
19 ~~pension board finds that before such member delivered the~~
20 ~~notice to the pension board, he or she had become entitled to~~
21 ~~elect a deferred retirement benefit, the pension board shall~~
22 ~~return to such member the full amount of his or her employee~~
23 ~~contributions, with interest as provided by rules and~~
24 ~~regulations adopted by the pension board.~~

1 "~~(4)~~ (3) PARTIAL REFUND OF EMPLOYEE CONTRIBUTIONS
2 AND CESSATION OF EMPLOYEE CONTRIBUTIONS AND EMPLOYER
3 CONTRIBUTIONS. When a ~~member's service entitles him or her to~~
4 ~~receive the maximum benefit that can be provided under the~~
5 ~~plan,~~ member attains 30 years of paid membership time, the
6 member may elect to terminate his or her employee
7 contributions by filing with ~~the secretary of~~ the pension
8 board a statement signed by the member stating that he or she
9 elects to terminate his or her employee contributions; in such
10 case, the employer contribution to the trust fund on the
11 member's behalf shall cease. As soon as practicable after a
12 member files such statement, the pension board shall refund to
13 him or her all employee contributions, without interest, made
14 by him or her to the trust fund subsequent to the date on
15 which the member accumulated sufficient service to entitle him
16 or her to the maximum benefit that can be provided under the
17 plan; additionally the pension board shall refund to the
18 county any associated employer contributions, without
19 interest.

20 "~~(5)~~ (4) REFUNDS UPON DEATH OF A MEMBER.

21 a. Refund of Employee Contributions for Deceased,
22 Nonvested Active Members Not Entitled to Deferred Retirement
23 Benefits. If a nonvested active member dies, then an amount
24 equal to the total amount of such member's employee

1 contributions, without interest, shall be refunded to the
2 member's beneficiary in one lump sum payment.

3 "b. Refund of Employee Contributions for Deceased,
4 Vested Members Entitled to Deferred Retirement Benefits, but
5 No Payments Have Commenced.

6 "1. Eligibility. Unless an election has been made in
7 accordance with Section 45-37-123.103 to receive a
8 preretirement joint survivorship pension, if a vested member
9 dies, before payments have commenced, then an amount equal to
10 the total amount of such member's employee contributions, with
11 interest, shall be refunded to the member's beneficiary in one
12 lump sum payment. This rule shall apply regardless of whether
13 the member dies while active, or after a deferred retirement
14 election has been made, so long as payments have not
15 commenced.

16 "2. Rules and regulations. The pension board is
17 authorized to adopt interest rules and regulations providing
18 for the pension board to pay to a beneficiary interest at the
19 rate prescribed in such rules on the member's employee
20 contributions that are to be refunded to the beneficiary. The
21 interest rules and regulations established shall prescribe the
22 terms and conditions on which such interest shall be payable
23 and may impose such limitations on the payment of interest as
24 the pension board deems appropriate.

1 "c. Refund of Employee Contributions for Deceased
2 Members Who Previously Elected a Postretirement Joint
3 Survivorship Pension.

4 "1. Eligibility - Retired member. Subject to items
5 (i) to (iii), inclusive, of subparagraph 2., if a retired
6 member dies after a postretirement joint survivorship pension
7 has been elected, then a refund may be paid in one lump sum
8 only as set forth in subparagraph 2.

9 "2. Rules and regulations. The pension board is
10 authorized to adopt rules and regulations providing for the
11 pension board to refund a member's employee contributions
12 after such member dies with a postretirement joint
13 survivorship pension election in place and to pay interest on
14 any such refund, subject to the conditions and limitations
15 stated below:

16 "(i) Such postretirement joint survivorship pension
17 election shall not be repealed or rescinded but shall be in
18 effect at the time of the refund, and the member shall have
19 enough service at the time of his or her death to be entitled
20 to a deferred retirement benefit if a refund were not made;
21 and

22 "(ii) Both the member and the member's primary
23 beneficiary shall be deceased, thus, no refund is payable in
24 the event that only the member dies while receiving payment of
25 a postretirement joint survivorship pension; and

1 "(iii) The member's employee contributions shall
2 exceed the sum of all monthly retirement benefits the plan has
3 paid to the member and/or the member's beneficiary.

4 "3. Amount of refund. If each of the requirements in
5 subparagraph 1. and subparagraph 2. are met, and the pension
6 board has adopted rules and regulations in accordance with
7 subparagraph 2., then the amount of the refund shall be equal
8 to the amount by which the member's employee contributions
9 exceed the sum of all monthly retirement benefits the plan has
10 paid to such member and/or such member's beneficiary, with
11 interest as provided by rules and regulations adopted by the
12 pension board.

13 "4. Payment made to contingent beneficiary. A refund
14 pursuant to this paragraph shall be paid to the member's
15 designated contingent beneficiary, or, to the member's estate
16 if the contingent beneficiary also is deceased or there is no
17 properly designated contingent beneficiary.

18 "5. Death while active member. In the event that an
19 active member dies after a postretirement joint survivorship
20 pension has been elected, such election shall be deemed void
21 and the provisions of Section 45-37-123.103(a), preretirement
22 death benefits, shall apply.

23 "d. Refund of Employee Contributions for Deceased
24 Members Who Were Receiving Superannuation, Early, Disability,
25 or Deferred Retirement Benefit Payments. In the event that a

1 member dies while receiving a superannuation retirement
2 benefit, an early retirement benefit, a disability retirement
3 benefit, or a deferred retirement benefit, then his or her
4 beneficiary shall be entitled to receive a refund in an amount
5 equal to the amount by which the member's employee
6 contributions exceed the sum of all monthly retirement
7 benefits the plan has paid to such member, ~~without~~ with
8 interest.

9 "e. Proof of Death and Marriage. The pension board
10 may require proper proof of death or marriage in accordance
11 with Section 45-37-123.103(f).

12 "~~(6)~~ (5) EMPLOYER CONTRIBUTIONS REMAIN IN TRUST
13 FUND. Employer contributions are never refunded to the member
14 or the member's beneficiary. All associated employer
15 contributions shall remain in the trust fund, except such
16 employer contributions that are returned to the county
17 pursuant to subdivision ~~(8)~~ (7).

18 "~~(7)~~ (6) CESSATION OF EMPLOYMENT. Unless otherwise
19 specifically provided in the plan, such as, pursuant to
20 subdivision ~~(8)~~ (7), a member shall cease to be an employee of
21 the county in order to receive a refund of employee
22 contributions.

23 "~~(8)~~ (7) REFUNDS TO CORRECT ERRORS. The pension
24 board, in its sole discretion, may refund employee
25 contributions and associated employer contributions to the

1 county to correct various errors, such as, inclusion in the
 2 plan of an ineligible individual or overpayment of employee
 3 contributions, in accordance with Section 45-37-123.23(b).

4 ~~"(9)~~ (8) NO REFUNDS FOR QUALIFIED MILITARY SERVICE.
 5 There shall be no refund of any contributions attributable to
 6 amounts that the county restores pursuant to Section
 7 45-37-123.80(b) due to a member's qualified military service.

8 ~~"(10)~~ (9) TIMING OF REFUND PAYMENTS. In the event
 9 that a refund is to be paid, such payment shall be made as
 10 soon as administratively practical following the date upon
 11 which entitlement to the refund occurs.

12 ~~"(11)~~ (10) REFUND TO INCLUDE AMOUNTS TRANSFERRED FROM
 13 457(b) PLAN. In the event that any member transfers amounts
 14 from a § 457(b), Internal Revenue Code, plan in accordance
 15 with Section 45-37-123.190(b), a refund shall include such
 16 transferred amounts, with interest if the member is vested.

17 "§45-37-123.151.

18 "(a) Specifically, but not in limitation of the
 19 pension board's authority to amend the plan as set forth in
 20 Section 45-37-123.150, the pension board may amend the plan to
 21 increase or enhance member benefits by cost-of-living
 22 increase, lump sum payment, or in any other form or manner as
 23 the pension board may prescribe, provided that such benefit
 24 increases or enhancements have been:

25 ~~"(1) Approved by resolution of the commission;~~

1 "~~(2)~~(1) Certified in a written opinion by a
 2 competent actuary that the trust fund and the anticipated
 3 receipts and liabilities are sufficient to pay for the
 4 increase or enhancement; and

5 "~~(3)~~(2) Set forth in written rules and regulations
 6 adopted by the pension board; ~~and.~~

7 "~~(4) Considered at a public meeting.~~

8 "(b) In no event shall a member be entitled to any
 9 benefit increase or enhancement, including any cost-of-living
 10 increase.

11 "§45-37-123.195.

12 "Any payment to any member, the member's legal
 13 representative, beneficiary, or to any guardian or committee
 14 appointed for such member or beneficiary in accordance with
 15 the plan, to the extent thereof, shall be in full satisfaction
 16 of all claims hereunder against the trustee, the county, and
 17 the pension board each of whom may require such member, legal
 18 representative, beneficiary, guardian, or committee, as a
 19 condition precedent to such payment, to execute a receipt and
 20 release thereof and/or an indemnification agreement in such
 21 form as shall be determined by the ~~trustee or county~~ pension
 22 board."

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

