

1 HB81
2 207519-1
3 By Representative Pettus
4 RFD: Ways and Means General Fund
5 First Read: 02-FEB-21
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SYNOPSIS: This bill would allow hazardous duty time to be used in calculating the requisite years of service for inservice death benefits for firefighters, law enforcement officers, and correctional officers even if the member has not otherwise attained 25 years of creditable service.

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 16-25-14 and 36-27-16, as amended by Act 2019-221 and Act 2019-316, 2019 Regular Session, Code of Alabama 1975, relating to inservice death benefits for firefighters, law enforcement officers, and correctional officers; to allow hazardous duty time to be used in calculating the requisite years of service for inservice death benefits.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 16-25-14 and 36-27-16, as
2 amended by Act 2019-221 and Act 2019-316, 2019 Regular
3 Session, of the Code of Alabama 1975, are amended to read as
4 follows:

5 "§16-25-14.

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

21 "(2) Any Tier I plan member who has attained age 60
22 and any Tier II plan member who has attained age 62, or in the
23 case of a Tier II plan member who is a correctional officer,
24 firefighter, or law enforcement officer as defined in Section
25 36-27-59, who has attained age 56 with at least ten years of
26 creditable service as a correctional officer, firefighter, or
27 law enforcement officer and has previously withdrawn from

1 service may retire upon written application to the Board of
2 Control setting forth at what time, not less than 30 days nor
3 more than 90 days subsequent to the execution and filing
4 thereof, he or she desires to be retired; provided, that the
5 member shall have completed at the time for his or her
6 withdrawal from service the requirements established by the
7 Board of Control for eligibility for deferred benefits
8 pursuant to Section 16-25-3.

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

22 "(4) Any Tier I plan member of the Teachers'
23 Retirement System of Alabama, who withdraws from service after
24 the completion of at least 25 years of creditable service, may
25 retire upon written application to the Board of Control of the
26 Teachers' Retirement System setting forth at what time, not
27 less than 30 days nor more than 90 days subsequent to the

1 execution and filing thereof, he or she desires to be retired;
2 provided, that any such member who became a Tier I plan member
3 on or after October 1, 1963 shall have completed 10 or more
4 years of creditable service.

5 "(b) Upon retirement from service, a Tier I plan
6 member shall receive a service retirement allowance which
7 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 annuity
12 allowable at the age of retirement, but not to exceed an
13 annuity allowable at age 65 computed on the basis of
14 contributions made prior to the attainment of age 65; and

15 "(3) If he or she has a prior service certificate in
16 full force and effect, an additional pension which shall be
17 equal to the annuity which would have been provided at age of
18 retirement, but not to exceed an annuity allowable at age 65
19 by twice the contributions which he or she would have made
20 during the period of prior service with which he or she is
21 credited had the system been in operation and had he or she
22 contributed thereunder. In lieu of a determination of the
23 actual compensation of the members that was received during
24 such prior service, the Board of Control may use for the
25 purposes of this chapter the compensation rates which, if they
26 had progressed with the rates of salary increase shown in the
27 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
26 hundredths percent (1.65%) of the member's average final
27 compensation multiplied by the number of years of creditable

1 service. Notwithstanding the foregoing, the service retirement
2 allowance shall not exceed eighty percent (80%) of the
3 member's average final compensation.

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

24 "(f) Upon retirement for disability, a Tier I plan
25 member shall receive a service retirement allowance if he or
26 she has attained age 60 or if any law or part of any law
27 pertaining to retirement under the Teachers' Retirement System

1 of Alabama provides for service retirement after the
2 completion of 25 years of creditable service and the member
3 has completed 25 years of creditable service; otherwise, he or
4 she shall receive a disability 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 retirement; and

9 "(2) A pension which shall be equal to the pension
10 that would have been payable under subdivisions (2) and (3) of
11 subsection (b) of this section upon service retirement at age
12 60 had the member continued in service to that age without
13 change in compensation.

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

17 "a. Two and one-eightieth percent of the member's
18 average final compensation multiplied by the number of years
19 of creditable service.

20 "b. If he or she became a member before October 1,
21 1971, \$54 multiplied by the number of years of his or her
22 creditable service not in excess of 25 years.

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

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

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

1 rights in and to his or her pension may be revoked by the
2 Board of Control; provided, that these requirements relative
3 to the medical examination shall not apply in the case of a
4 Tier II plan member who is a correctional officer,
5 firefighter, or law enforcement officer as defined in Section
6 36-27-59 retired for disability and who has attained age 56
7 with at least ten years of creditable service as a
8 correctional officer, firefighter, or law enforcement officer.

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

25 "(3) Should the medical board report and certify to
26 the Board of Control that a disability beneficiary who is a
27 Tier II plan member has the capacity to engage in regular and

1 substantial gainful employment, the Board of Control shall
2 discontinue the beneficiary's retirement allowance until the
3 beneficiary is otherwise eligible for service retirement.

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

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

1 allowance provided under Option 3, the accumulated
2 contributions of the member plus an amount equal to the
3 accumulated contributions of the member not to exceed \$5,000
4 or the accumulated contributions of the member plus the
5 benefit provided by Section 36-27B-3 if a benefit is payable
6 under such section. For purposes of this subsection only,
7 hazardous duty time, as set forth in subdivision (1) of
8 subsection (b) of Section 36-27-59, may be used in calculating
9 the requisite years of service for firefighters, law
10 enforcement officers, and correctional officers even if the
11 member has not otherwise attained 25 years of creditable
12 service.

13 "(3) Upon the death of a member on account of whom
14 no survivor allowance is payable under subdivision (2) of this
15 subsection, the accumulated contributions of the member plus
16 an amount equal to the accumulated contributions not to exceed
17 \$5,000 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 shall be paid to his or her estate or to
20 such person as he shall have nominated by written designation
21 duly executed and filed with the Board of Control.

22 "(j) With the provision the election of an option
23 shall be effective on the effective date of retirement, any
24 member may elect prior to retirement to receive, in lieu of
25 his or her retirement allowance payable throughout life, the
26 actuarial equivalent at that time of his or her retirement

1 allowance in a reduced retirement allowance payable throughout
2 life with the provision that:

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

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

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

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

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

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

1 allowance basis, together with the interest which would have
2 been credited to the contributions on account of such period
3 of restoration up to the date such contribution is made.

4 "(1) (1) All retirement allowance payments due on or
5 after October 1, 1975, to members who retired prior to October
6 1, 1975, shall be redetermined as if the provisions of
7 subsections (b) and (e) of this section which became effective
8 on said date were in effect at the time the member retired;
9 provided, that the annual retirement allowance of any member
10 who retired on or before January 1, 1956, shall be not less
11 than \$132 multiplied by the number of years of his or her
12 creditable service not in excess of 30 years in the case of
13 service retirement or \$99 multiplied by the number of years of
14 creditable service not in excess of 30 years in the case of
15 disability retirements. Any increase provided in the
16 retirement allowance payment under this subsection for a
17 member who retired under the provisions of any optional
18 benefit elected pursuant to subsection (j) of this section
19 shall accrue only to the retired member, and no person
20 designated to receive any payments after the death of a
21 retired member under the provisions of any such optional
22 benefit shall receive any increase in such payments under this
23 subsection.

24 "(2) Any person who served at least 30 years as a
25 teacher in the public schools of Alabama and was never a
26 member of the system and who, prior to October 1, 1963, was in
27 receipt of a benefit for old age assistance pursuant to

1 subsections (1) and (2) of Section 1 of Act 116, approved
2 August 24, 1959, shall be entitled to receive an annual
3 retirement allowance of \$3,960 from the system, effective as
4 of October 1, 1973.

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

19 "(m) Notwithstanding any other provisions of this
20 section to the contrary, when a designated beneficiary for a
21 member predeceases the member who is receiving a monthly
22 benefit allowance provided under Option 2, 3, or 4, the member
23 may designate a replacement beneficiary for the deceased
24 beneficiary to become effective two years after the date of
25 designation of the replacement beneficiary and an actuarial
26 adjustment in the monthly benefit allowance of the member to
27 cover any cost associated with designating a replacement

1 beneficiary shall be reflected thereafter in the monthly
2 benefit allowance received by the member, commencing with the
3 first benefit allowance check received by the member following
4 the date of designation of the replacement beneficiary.

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

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

22 "§36-27-16.

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

25 "a. Any Tier I plan member who withdraws from
26 service upon or after attainment of age 60 and any Tier II
27 plan member who withdraws from service upon or after

1 attainment of age 62 may retire upon written application to
2 the Board of Control setting forth at what time, not less than
3 30 days nor more than 90 days subsequent to the execution and
4 filing thereof, he or she desires to be retired; provided,
5 that any such member who became a member on or after October
6 1, 1963, shall have completed 10 or more years of creditable
7 service; provided further, that a Tier I plan member employed
8 as a state policeman shall be eligible to file application for
9 service retirement upon attaining age 52 and a Tier II plan
10 member employed as a state policeman or employed as a
11 correctional officer, firefighter, or law enforcement officer
12 as defined in Section 36-27-59 with at least ten years of
13 creditable service as a correctional officer, firefighter, or
14 law enforcement officer shall be eligible to file application
15 for service retirement upon attaining age 56.

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

1 time of his or her withdrawal from service completed the age
2 and service requirements established by the Board of Control
3 for eligibility for deferred benefits; provided, that such
4 minimum number of years of creditable service shall not be
5 less than 10 years nor more than 25 years.

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

22 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

26 "1. An annuity which shall be the actuarial
27 equivalent of his or her accumulated contributions at the time

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

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

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

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

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

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

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

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

1 service, the Board of Control may use for the purpose of this
2 article the compensation rate which, if it had progressed with
3 the rates of salary increase shown in the tables as prescribed
4 in subsection (n) of Section 36-27-23, would have resulted in
5 the same average salary of the member for the five years
6 immediately preceding the date of establishment as the records
7 show the member actually received.

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

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

16 "2. If he or she became a member before October 1,
17 1965, \$72.00 multiplied by the number of years of his or her
18 creditable service not in excess of 25 years.

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

24 "1. Two and seven-eighths percent of the member's
25 average final compensation multiplied by the number of years
26 of his or her creditable service. Creditable service for any
27 state policeman under the age of 56 years who has completed 20

1 years of creditable service as a state policeman shall include
2 a bonus equal to four additional years. Creditable service for
3 a state policeman 56 years or older shall include a bonus
4 equal to the years or portion thereof remaining until the
5 member reaches age 60; or

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

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

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

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

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

1 employment classification at the time of his or her withdrawal
2 from service.

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

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

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

1 of filing such application; provided, that the medical board,
2 after a medical examination of such member, shall certify that
3 the member is totally and permanently mentally or physically
4 incapacitated from regular and substantial gainful employment,
5 and that member should be retired.

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

26 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

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

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

22 "2. A pension which shall be equal to the pension
23 that would have been payable under subparagraphs 2 and 3 of
24 paragraph a. of subdivision (2) of subsection (a) of this
25 section upon service retirement at age 65 had the member
26 continued in service to that age without change in
27 compensation.

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

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

9 "2. If he or she became a member before October 1,
10 1965, \$54.00 multiplied by the number of years of his or her
11 creditable service not in excess of 25 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Section 2. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

