

1 HB326
2 175381-2
3 By Representative Wood
4 RFD: State Government
5 First Read: 28-FEB-17

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8 SYNOPSIS: Under existing law, a Tier II correctional
9 officer, firefighter, or law enforcement officer is
10 eligible for full retirement benefits if he or she
11 retires after the age of 56 with at least 10 years
12 of creditable service as a correctional officer,
13 firefighter, or law enforcement officer.

14 This bill would allow Tier II members of the
15 Employees' Retirement System or the Teachers'
16 Retirement System employed as a correctional
17 officer, firefighter, or law enforcement officer to
18 retire with full retirement benefits upon
19 completion of 25 years of service.

20 The bill would also provide that Tier II
21 members of the Employees' Retirement System or the
22 Teachers' Retirement System employed as a
23 correctional officer, firefighter, or law
24 enforcement officer shall contribute eight and
25 one-quarter percent of his or her earnable
26 compensation to the retirement system.

1 A BILL
2 TO BE ENTITLED
3 AN ACT

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5 Relating to retirement benefits; to amend Sections
6 16-25-14, 16-25-21, 36-27-16, and 36-27-24, Code of Alabama
7 1975; to allow Tier II members of the Employees' Retirement
8 System or the Teachers' Retirement System employed as a
9 correctional officer, firefighter, or law enforcement officer
10 to retire with full benefits upon completion of 25 years of
11 service; and to provide that Tier II members of the Employees'
12 Retirement System or the Teachers' Retirement System employed
13 as a correctional officer, firefighter, or law enforcement
14 officer to contribute eight and one-quarter percent of his or
15 her earnable compensation to the retirement system.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 16-25-14, 16-25-21, 36-27-16 and
18 36-27-24, Code of Alabama 1975, are amended to read as
19 follows:

20 "§16-25-14.

21 "(a) (1) Any Tier I plan member who withdraws from
22 service upon or after attainment of age 60 and any Tier II
23 plan member who withdraws from service upon or after
24 attainment of age 62, or in the case of a Tier II plan member
25 who is a correctional officer, firefighter, or law enforcement
26 officer as defined in Section 36-27-59, who withdraws from
27 service upon or after attainment of age 56 with at least ten

1 years of creditable service as a correctional officer,
2 firefighter, or law enforcement officer may retire upon
3 written application to the Board of Control setting forth at
4 what time, not less than 30 days nor more than 90 days
5 subsequent to the execution and filing thereof, he or she
6 desires to be retired; provided, that any such member who
7 became a member on or after October 1, 1963, shall have
8 completed 10 or more years of creditable service.

9 "(2) Any Tier I plan member who has attained age 60
10 and any Tier II plan member who has attained age 62, or in the
11 case of a Tier II plan member who is a correctional officer,
12 firefighter, or law enforcement officer as defined in Section
13 36-27-59, who has attained age 56 with at least ten years of
14 creditable service as a correctional officer, firefighter, or
15 law enforcement officer and has previously withdrawn from
16 service may retire upon written application to the Board of
17 Control setting forth at what time, not less than 30 days nor
18 more than 90 days subsequent to the execution and filing
19 thereof, he or she desires to be retired; provided, that the
20 member shall have completed at the time for his or her
21 withdrawal from service the requirements established by the
22 Board of Control for eligibility for deferred benefits
23 pursuant to Section 16-25-3.

24 "(3) Any person who is presently covered or is
25 eligible to be covered under the Employees' Retirement System
26 of Alabama or the Teachers' Retirement System of Alabama and
27 who, prior to such coverage or eligibility for coverage,

1 served as head of any Alabama county's public library service
2 department shall have credited to him or her one year of
3 creditable service for each year served as such head, not to
4 exceed 12 years; provided, that such person shall pay into the
5 retirement system the employee's part of the cost or
6 contribution based on the salary paid to such person during
7 the time of his or her service in the above capacity, with
8 such cost or contribution to be calculated at the percent or
9 rate in effect on October 1, 1973.

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

20 "(5) Any Tier II plan member of the Teachers'
21 Retirement System of Alabama employed as a correctional
22 officer, firefighter, or law enforcement officer, as defined
23 in Section 36-27-59, who withdraws from service after
24 completion of not less than 25 years of creditable service as
25 a correctional officer, firefighter, or law enforcement
26 officer, may retire without a reduction in retirement
27 allowance upon written application to the Board of Control of

1 the Teachers' Retirement System setting forth the first day of
2 which month, not less than 30 days nor more than 90 days
3 subsequent to the execution and filing thereof, he or she
4 desires to be retired.

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.

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

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

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

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

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

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

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

21 "(k) Should any beneficiary be restored to active
22 service, his or her retirement allowance shall be suspended
23 until he or she again withdraws from service and, he or she
24 shall not again become a member, 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 period subsequent to the date of his or her reentry
8 into active service; provided further, that he or she shall
9 make a contribution equal to the amount he or she would have
10 contributed had he or she been a member during the period of
11 his or her restoration to active service on a suspended
12 allowance basis, together with the interest which would have
13 been credited to the contributions on account of such period
14 of restoration up to the date such contribution is made.

15 "(1) (1) All retirement allowance payments due on or
16 after October 1, 1975, to members who retired prior to October
17 1, 1975, shall be redetermined as if the provisions of
18 subsections (b) and (e) of this section which became effective
19 on said date were in effect at the time the member retired;
20 provided, that the annual retirement allowance of any member
21 who retired on or before January 1, 1956, shall be not less
22 than \$132 multiplied by the number of years of his or her
23 creditable service not in excess of 30 years in the case of
24 service retirement or \$99 multiplied by the number of years of
25 creditable service not in excess of 30 years in the case of
26 disability retirements. Any increase provided in the
27 retirement allowance payment under this subsection for a

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

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

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

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

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

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

1 check received by the member following the date of designation
2 of the replacement beneficiary.

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

7 "§16-25-21.

8 "Effective October 1, 1997, all the assets of the
9 retirement system shall be credited according to the purpose
10 for which they are held among three funds, namely: The Annuity
11 Savings Fund, the Pension Accumulation Fund, and the Expense
12 Fund. The operation of the former Pension Reserve Fund and the
13 Annuity Reserve Fund shall be discontinued as of such date,
14 the balance of the former Pension Reserve Fund shall be
15 transferred to the Pension Accumulation Fund, and the balance
16 of the former Annuity Reserve Fund shall be transferred to the
17 Pension Accumulation Fund.

18 "(1) The Annuity Savings Fund shall be a fund in
19 which shall be accumulated contributions from the compensation
20 of members to provide for their annuities. Contributions to
21 and payments from the Annuity Savings Fund shall be made as
22 follows:

23 "a. Each employer shall cause to be deducted from
24 the salary of each member on each and every payroll of such
25 employer for each and every payroll period five percent of his
26 or her earnable compensation. For all pay dates beginning on
27 or after October 1, 2011, each employer shall cause to be

1 deducted from the salary of each member on each and every
2 payroll of such employer for each and every payroll period
3 seven and one-quarter percent (7.25%) of his or her earnable
4 compensation. For all pay dates beginning on or after October
5 1, 2012, each employer shall cause to be deducted from the
6 salary of each Tier I plan member on each and every payroll of
7 such employer for each and every payroll period seven and
8 one-half percent (7.5%) of his or her earnable compensation.
9 For all pay dates beginning on or after January 1, 2013, each
10 employer shall cause to be deducted from the salary of each
11 Tier II plan member on each and every payroll period six
12 percent (6%) of his or her earnable compensation; except in
13 the case of a Tier II plan member who is a correctional
14 officer, firefighter, or law enforcement officer as defined in
15 Section 36-27-59, the rate of seven percent (7%) shall apply.
16 For all pay dates beginning on or after October 1, 2017, each
17 employer shall cause to be deducted from the salary of each
18 Tier II plan member employed as a correctional officer,
19 firefighter, or law enforcement officer as defined in Section
20 36-27-59 on each and every payroll period eight and
21 one-quarter percent (8.25%) of his or her earnable
22 compensation. In determining the amount earnable by a member
23 in a payroll period, the Board of Control may consider the
24 rate of annual compensation payable to such member on the
25 first day of the payroll period as continuing throughout such
26 payroll period, and it may omit deductions from compensation
27 for any period less than a full payroll period if a teacher

1 was not a member on the first day of the payroll period, and
2 to facilitate the making of deductions it may modify the
3 deduction required of any member by such an amount as shall
4 not exceed one tenth of one percent of the annual compensation
5 upon the basis of which such deduction is to be made.

6 "b. The deductions provided for herein shall be made
7 notwithstanding that the minimum compensation provided for by
8 law for any member shall be reduced thereby. Every member
9 shall be deemed to consent and agree to the deduction made and
10 provided for herein and shall receipt for his or her full
11 salary or compensation, and payment of salary or compensation
12 less such deduction shall be a full and complete discharge and
13 acquittance of all claims and demands whatsoever for the
14 service rendered by such person during the period covered by
15 such payment, except as to the benefits provided under this
16 chapter. The employer shall certify to the Board of Control on
17 each and every payroll or in such other manner as the board
18 may prescribe the amount to be deducted; and each of the
19 amounts shall be deducted, and when deducted shall be paid
20 into the Annuity Savings Fund and shall be credited, together
21 with regular interest thereon, to the individual account of
22 the member from whose compensation the deduction was made.

23 "c. In addition to the contributions deducted from
24 compensation as hereinbefore provided, subject to the approval
25 of the Board of Control, any member may deposit in the Annuity
26 Savings Fund by a single payment or by an increased rate of
27 contribution an amount computed to be sufficient to purchase

1 an additional annuity which, together with his or her
2 prospective retirement allowance, will provide for him or her
3 a total retirement allowance not to exceed one half of his or
4 her average final compensation at age 60. Such additional
5 amounts so deposited shall become a part of his or her
6 accumulated contributions except in the case of retirement,
7 when they shall be treated as excess contributions returnable
8 to the member in cash or as an annuity of equivalent actuarial
9 value and shall not be considered in computing his or her
10 pension. The contributions and interest credits of a member
11 withdrawn by him or her, or paid to his or her estate or to
12 his or her designated beneficiary in event of his or her
13 death, shall be paid from the Annuity Savings Fund. Should a
14 member cease to be a member other than by retirement under the
15 provisions of this title, an amount equivalent to the
16 difference, if any, between his or her accumulated
17 contributions and the amount then paid shall be transferred to
18 the Expense Fund. Upon the retirement of a member or the death
19 of an eligible member where an allowance to the surviving
20 spouse is payable, his or her accumulated contributions shall
21 be transferred from the Annuity Savings Fund to the Pension
22 Accumulation Fund.

23 "d. Notwithstanding the preceding provisions, no
24 deductions shall be made from any member's salary on account
25 of which the employer's contribution is in default.

26 "(2) The Pension Accumulation Fund shall be the fund
27 in which shall be accumulated all reserves, other than amounts

1 held in the Annuity Savings Fund for the payment of all
2 pensions and other benefits. Contributions to and payments
3 from the Pension Accumulation Fund shall be made as follows:

4 "a. On account of each member there shall be paid
5 monthly by the employer an amount equal to a certain
6 percentage of the earnable compensation of each member to be
7 known as the "normal contribution" and an additional amount
8 equal to a percentage of his or her earnable compensation to
9 be known as the "accrued liability contribution," and these
10 two amounts shall be paid monthly into the Pension
11 Accumulation Fund. The Teachers' Retirement System shall
12 recommend to the Legislature on or before the first
13 legislative day of each regular session of the Legislature the
14 rate for the following fiscal year. The Legislature shall set
15 the rate in the annual appropriation bill.

16 "b. On the basis of regular interest and of such
17 mortality and other tables as shall be adopted by the Board of
18 Control, the actuary engaged by the board to make such
19 valuation required by this title shall, immediately after
20 making such valuation, determine the uniform and constant
21 percentage of the earnable compensation of the average new
22 entrant which, if contributed on the basis of his or her
23 compensation throughout his or her entire period of active
24 service, would be sufficient to provide for the payment of any
25 pension payable on his or her account. The rate per centum so
26 determined shall be known as the "normal contribution" rate.

1 The normal contribution rate shall be determined by the
2 actuary after each valuation.

3 "c.1. The accrued liability contribution rate shall
4 be computed by the actuary on the basis of each valuation as
5 the per centum rate of the total annual compensation of all
6 members which is sufficient to liquidate the unfunded accrued
7 liability over a period to be determined by the Board of
8 Control which shall be not less than 10 nor more than 30
9 years.

10 "2. The unfunded accrued liability shall be computed
11 by the actuary as the total liabilities of the system which
12 are not dischargeable by the assets of the Annuity Savings
13 Fund and the Pension Accumulation Fund and the present value
14 of the aforesaid normal contributions. For purposes of
15 computing the unfunded accrued liability the assets shall be
16 determined as follows:

17 "On June 30, 1997, the assets shall be determined by
18 using the market value of such assets. For subsequent years
19 the value of the assets shall be determined by the system's
20 actuary using a five year smoothed market value.

21 "d. The total amount payable in each year to the
22 Pension Accumulation Fund shall be not less than the sum of
23 the per centum rates known as the normal contribution rate and
24 the accrued liability contribution rate of the total
25 compensation earnable by all members during the year.

26 "e. All interest and dividends earned on the funds
27 of the retirement system shall be credited to the Pension

1 Accumulation Fund. The amounts needed to allow regular
2 interest on the reserves in the Annuity Savings Fund shall be
3 transferred in accordance with the provisions of this chapter
4 from the Pension Accumulation Fund. The Board of Control, in
5 its discretion, may transfer to and from the Pension
6 Accumulation Fund the amount of any surplus or deficit which
7 may develop in the Annuity Savings Fund or the Expense Fund.

8 "f. Upon the death of a member on account of whom no
9 survivor allowance is payable under subdivision (2) of
10 subsection (i) of Section 16-25-14, the death benefit as
11 provided in subdivision 2 of subsection (i) of such section
12 equal to the accumulated contributions not to exceed \$5,000
13 shall be payable from the Pension Accumulation Fund.

14 "(3) The Expense Fund shall be the fund from which
15 the expenses of the administration of the retirement system
16 shall be paid, exclusive of amounts payable as retirement
17 allowances and as other benefits provided herein. Any amounts
18 credited to the accounts of members withdrawing before
19 retirement and not returnable under the provisions of
20 subsection (i) of Section 16-25-14 shall be credited to the
21 Expense Fund. Any additional contributions required to meet
22 the expenses of the retirement system shall be made as
23 provided in paragraphs c., d., and e. of subdivision (4) of
24 this section.

25 "(4)a. On or before October 1 of each year, each
26 local board of education, the State Board of Education, the
27 governing boards of the University of Alabama, Auburn

1 University, and the University of Montevallo and the Executive
2 Committee of the Alabama Education Association shall file with
3 the Board of Control of the retirement system a certified
4 statement containing the following information concerning the
5 members of the retirement system employed by such boards for
6 the scholastic year beginning on July first preceding the
7 date: Name, address, monthly salary, annual salary, and such
8 other information as the Board of Control may require. On or
9 before July 31 of each year, each local board of education;
10 the State Board of Education; the governing boards of the
11 University of Alabama, Auburn University, and the University
12 of Montevallo and the Executive Committee of the Alabama
13 Education Association shall file with the Board of Control of
14 the retirement system a certified statement containing the
15 following information concerning members of the retirement
16 system employed by such boards during the scholastic year
17 ending on June 30 preceding the date: Name, address, monthly
18 salary actually paid, total annual salary actually paid, and
19 such other information as the Board of Control may require.

20 "b. The collection of members' contributions shall
21 be as follows: Each local board of education, the State Board
22 of Education, the governing boards of the University of
23 Alabama, Auburn University, and the University of Montevallo
24 and the Executive Committee of the Alabama Education
25 Association shall cause to be deducted on each and every
26 payroll period subsequent to the date of the establishment of
27 the retirement system the contributions payable by each member

1 as provided in this chapter. Each employer shall transmit
2 monthly, or at such time as the Board of Control shall
3 designate, the total amount so deducted to the
4 Secretary-Treasurer of the Board of Control accompanied by an
5 itemized statement of the contributions of each individual
6 member of the retirement system. The Secretary-Treasurer of
7 the Board of Control after making a record of all such
8 receipts shall transmit the same to the State Treasurer to be
9 held for use according to the provisions of this chapter.
10 Notwithstanding anything in this section, the Board of Control
11 may modify the form of reports required of employers and may
12 modify the method of collecting the contributions of members
13 so that employers may retain the amounts so deducted and have
14 a corresponding amount deducted from funds otherwise payable
15 to them.

16 "c. The employer's contributions shall be made from
17 the same funds used to pay salaries based on the employer cost
18 rate determined under paragraph a. of subdivision (2).

19 "d. Where member contributions are made from
20 salaries paid from federal funds, the employer shall pay from
21 federal funds to the Teachers' Retirement System the amount
22 calculated as a percentage of the salaries of those teachers
23 to be contributed by the employer in accordance with
24 subdivisions (2) and (3) of this section. Such amounts shall
25 be paid at the same time as the member contributions are made
26 to the retirement system. The provisions of this paragraph
27 shall not apply to funds received under the provisions of the

1 Hatch Act of 1887, as amended in 1955, and the
2 McIntyre-Stennis Act (Cooperative Forestry Research Act of
3 1962) of the Congress of the United States, for the support of
4 agriculturally related research.

5 "e. Where member contributions are made from
6 salaries paid by the Alabama Education Association, the
7 Alabama Education Association shall pay the employer costs
8 calculated as a percentage of the salaries of those employees
9 to be contributed as employer in accordance with subdivisions
10 (2) and (3) of this section. Such amounts shall be paid
11 monthly and at the same time as the member contributions are
12 made to the Teachers' Retirement System.

13 "f. To the extent that employer cost is collected
14 for any increase in benefits payable to retired employees of
15 local boards of education and state institutions of higher
16 education who are retired under the Employees' Retirement
17 System, there shall be a transfer of funds from these funds to
18 the Employees' Retirement System for each year such benefits
19 are payable.

20 "g. Employer cost provided for in this article
21 together with member contributions required under this article
22 shall be paid to the Teachers' Retirement System on the first
23 day of the month following the month in which the related
24 member salary is earned. Delinquent accounts shall accrue
25 interest at the actuarial assumed investment rate beginning 30
26 days after the original due date. The member contributions for
27 each member shall be reported to the Teachers' Retirement

1 System in a format prescribed by the Teachers' Retirement
2 System.

3 "§36-27-16.

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

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

24 "b. Any Tier I plan member who has attained age 60,
25 or age 52 in the case of a state policeman and any Tier II
26 plan member who has attained age 62, or age 56 in the case of
27 a state policeman or in the case of a correctional officer,

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

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

1 paragraph. Any employer making such election must bear the
2 cost of such benefit.

3 "d. Any Tier II plan member employed as a
4 correctional officer, firefighter, or law enforcement officer
5 as defined in Section 36-27-59, who withdraws from service
6 after completion of not less than 25 years of creditable
7 service as a correctional officer, firefighter, or law
8 enforcement officer, may retire without a reduction in
9 retirement allowance upon written application to the Board of
10 Control of the Employees' Retirement System setting forth the
11 first day of which month, not less than 30 days nor more than
12 90 days subsequent to the execution and filing thereof, he or
13 she desires to be retired.

14 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

15 "a. Upon retirement from service a Tier I plan
16 member shall receive a service retirement allowance which
17 shall consist of:

18 "1. An annuity which shall be the actuarial
19 equivalent of his or her accumulated contributions at the time
20 of his or her retirement; except, that in the case of a state
21 policeman who has completed 20 years of creditable service as
22 a state policeman who retires after age 56 but prior to age
23 60, the annuity shall be equal to the annuity that would have
24 been payable upon service retirement at age 60 had the member
25 continued in service to age 60 without change in compensation;

26 "2. A pension which shall be equal to the annuity
27 allowance at age of retirement, but not to exceed an annuity

1 allowable at age 65, computed on the basis of contributions
2 made prior to attainment of age 65; except, that in the case
3 of a state policeman who has completed 20 years of creditable
4 service as a state policeman who retires after age 56 but
5 prior to age 60, the pension shall be equal to the annuity
6 that he or she would have received had he or she contributed
7 to age 60 without change in compensation; and

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

26 "b. Notwithstanding the provisions of subparagraphs
27 1, 2, and 3 of paragraph a. of this subdivision, a state

1 policeman who is a Tier I plan member and who has completed 20
2 years of service as a state policeman who retires after age 52
3 but prior to age 56 shall receive:

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

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

10 "3. An additional pension, if he or she has a prior
11 service certificate in full force and effect, which shall be
12 equal to the annuity which would have been provided at the age
13 of retirement, but which shall not exceed an annuity allowable
14 at the age of retirement plus four years by twice the
15 contributions which he or she would have made during the
16 period of prior service with which he or she is credited had
17 the system been in operation and had he or she contributed
18 thereunder. In lieu of a determination of the actual
19 compensation of a member that was received during such prior
20 service, the Board of Control may use for the purpose of this
21 article the compensation rate which, if it had progressed with
22 the rates of salary increase shown in the tables as prescribed
23 in subsection (n) of Section 36-27-23, would have resulted in
24 the same average salary of the member for the five years
25 immediately preceding the date of establishment as the records
26 show the member actually received.

1 "c. The annual service retirement pension payable to
2 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 greater 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 his or her creditable service; or

9 "2. If he or she became a member before October 1,
10 1965, \$72.00 multiplied by the number of years of his or her
11 creditable service not in excess of 25 years.

12 "d. The annual service retirement pension payable to
13 a Tier I plan member employed as a state policeman retiring on
14 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
16 greater 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

26 "2. If he or she became a member before October 1,
27 1965, \$86.40 multiplied by the number of years of his or her

1 creditable service not in excess of 25 years; provided,
2 however, that if such member has completed 20 years of
3 creditable service as a state policeman and has not attained
4 age 60 at the time of retirement, the pension shall be
5 determined as provided in this subparagraph on the basis of
6 the number of years of creditable service which he or she
7 would have had if he or she had remained in service for four
8 years, except that, in the case of those state policemen
9 retiring at age 56 or after, the number of years in
10 determining the pension shall not exceed the number of years
11 of creditable service which he or she would have had if he or
12 she had remained in service to age 60.

13 "e. Upon retirement from service, a Tier II plan
14 member who is not employed as a state policeman shall receive
15 a service retirement allowance which shall consist of an
16 annuity which shall be the actuarial equivalent of the
17 member's accumulated contributions at the time of retirement
18 and a pension which, when added to the member's annuity, shall
19 be equal to one and sixty-five hundredths percent (1.65%) of
20 the member's average final compensation multiplied by the
21 number of years of creditable service. Notwithstanding the
22 foregoing, the service retirement allowance shall not exceed
23 eighty percent (80%) of the member's average final
24 compensation.

25 "f. Upon retirement from service, a Tier II plan
26 member who is employed as a state policeman shall receive a
27 service retirement allowance which shall consist of an annuity

1 which shall be the actuarial equivalent of the member's
2 accumulated contributions at the time of retirement and a
3 pension which, when added to the member's annuity, shall be
4 equal to two and three-eighths percent (2.375%) of the
5 member's average final compensation multiplied by the member's
6 number of years of creditable service. Notwithstanding the
7 foregoing, the service retirement allowance shall not exceed
8 eighty percent (80%) of the member's average final
9 compensation.

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

23 "h. The annual service retirement pension payable to
24 any state employee who had attained age 60 on or before
25 October 1, 1945, who declined membership in the Employees'
26 Retirement System of Alabama in the manner prescribed in
27 Section 36-27-4 and who retires as a state employee after

1 completing a minimum of 15 years' service shall be \$72.00
2 multiplied by the number of years of his or her service not in
3 excess of 25 years.

4 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;
5 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

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

26 "b. Without regard to the number of years of
27 creditable service, a member employed as a state policeman, a

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

19 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

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

1 allowance and the member has completed 25 years of creditable
2 service, or, in the case of a state policeman, if he or she is
3 a Tier I plan member and he or she has attained age 52 or, in
4 the case of a state policeman or a correctional officer,
5 firefighter, or law enforcement officer as defined in Section
6 36-27-59 with at least ten years of creditable service as a
7 correctional officer, firefighter, or law enforcement officer,
8 if he or she is a Tier II plan member and he or she has
9 attained age 56; otherwise, he or she shall receive a
10 disability retirement allowance which shall consist of:

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

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

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

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

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

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

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

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

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

26 "e. The annual disability retirement allowance
27 payable to a Tier II plan member employed as a state policeman

1 shall be equal to two and three-eighths percent (2.375%) of
2 the member's average final compensation multiplied by the
3 number of years of creditable service.

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

17 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
18 ACCOUNT OF DISABILITY. Once each year during the first five
19 years following the retirement of a member on a disability
20 retirement allowance and once every three-year period
21 thereafter, the Board of Control may, and upon his or her
22 application shall, require any disability beneficiary who has
23 not yet attained age 60 if the beneficiary is a Tier I plan
24 member or age 62 if the beneficiary is a Tier II plan member
25 to undergo a medical examination, such examination to be made
26 at the place of residence of such beneficiary or other place
27 mutually agreed upon by a physician or physicians of or

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

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

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

13 "(c) Disposition of contributions and allowances
14 upon death, etc., of member.

15 "(1) Should a member cease to be an employee except
16 by death or by retirement under the provisions of this
17 article, the contributions standing to the credit of his or
18 her individual account in the Annuity Savings Fund shall be
19 paid to him or her upon demand and, in addition to such
20 payment, there shall be paid five-tenths of the interest
21 accumulations standing to the credit of his or her individual
22 account if he or she shall have not less than three but less
23 than 16 years of membership service, six-tenths of such
24 interest accumulations if he or she shall have not less than
25 16 but less than 21 years of membership service, seven-tenths
26 of such interest accumulations if he or she shall have not
27 less than 21 but less than 26 years of membership service and

1 eight-tenths of such interest accumulations if he or she shall
2 have not less than 26 years of membership service.

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

18 "(3) In case of the death of a Tier I plan member
19 not eligible for service retirement, after completion of 25
20 years of creditable service, an allowance shall be paid to the
21 surviving spouse, or to such other person who the member shall
22 have designated, in an amount that would have been payable if
23 the member had retired for disability immediately prior to his
24 or her death and had elected Option 3 as set forth in
25 subsection (d) of this section or, alternatively, if the
26 surviving spouse or other designee desires, he or she may
27 choose to receive, in lieu of the allowance provided under

1 Option 3, the accumulated contributions of the member plus an
2 amount equal to the accumulated contributions of the member
3 not to exceed \$5,000.00 or the accumulated contributions of
4 the member plus the benefit provided by Section 36-27B-3 if a
5 benefit is payable under such section;

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

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

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

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

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

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

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

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 "§36-27-24.

26 "(a) Effective October 1, 1997, all the assets of
27 the retirement system shall be credited according to the

1 purpose for which they are held among three funds, namely, the
2 Annuity Savings Fund, the Pension Accumulation Fund, and the
3 Expense Fund. The operation of the former Pension Reserve Fund
4 and the Annuity Reserve Fund shall be discontinued as of such
5 date and the balance of the former Pension Reserve Fund shall
6 be transferred to the Pension Accumulation Fund, and the
7 balance of the former Annuity Reserve Fund shall be
8 transferred to the Pension Accumulation Fund.

9 "(b) Annuity Savings Fund. The Annuity Savings Fund
10 shall be a fund in which shall be accumulated contributions
11 from the compensation of members to provide for their
12 annuities.

13 "Contributions to and payments from the Annuity
14 Savings Fund shall be made as follows: Effective October 1,
15 1971, each employer shall cause to be deducted from the salary
16 of each member on each and every payroll of such employer for
17 each and every payroll period five percent of his or her
18 earnable compensation; except, that in the case of a state
19 policeman, the rate of 10 percent of earnable compensation
20 shall apply, and in computing all retirement benefits it shall
21 be assumed that a seven percent rate of contribution had
22 applied with respect to service as a state policeman prior to
23 July 1, 1957. For all pay dates beginning on or after October
24 1, 2011, each employer, except those employers participating
25 pursuant to Section 36-27-6, shall cause to be deducted from
26 the salary of each member on each and every payroll of such
27 employer for each and every payroll period seven and

1 one-quarter percent (7.25%) of his or her earnable
2 compensation; except, that in the case of a state policeman,
3 the rate of ten percent (10%) of earnable compensation shall
4 apply. For all pay dates beginning on or after October 1,
5 2012, each employer, except those employers participating
6 pursuant to Section 36-27-6, shall cause to be deducted from
7 the salary of each Tier I plan member on each and every
8 payroll of such employer for each and every payroll period
9 seven and one-half percent (7.5%) of his or her earnable
10 compensation; except, that in the case of a state policeman,
11 the rate of ten percent (10%) of earnable compensation shall
12 apply. For all pay dates beginning on or after January 1,
13 2013, each employer shall cause to be deducted from the salary
14 of each Tier II plan member on each and every payroll period
15 six percent (6%) of his or her earnable compensation; except
16 that in the case of a state policeman, the rate of ten percent
17 (10%) shall apply and in the case of a correctional officer,
18 firefighter, or law enforcement officer as defined in Section
19 36-27-59, the rate of seven percent (7%) shall apply. Any
20 employer participating under Section 36-27-6, by adoption of a
21 resolution, may elect for the increases in employee
22 contributions provided by Act 2011-676 to be withheld from the
23 earnable compensation of employees of the employer. For all
24 pay dates beginning on or after October 1, 2017, each employer
25 shall cause to be deducted from the salary of each Tier II
26 plan member employed as a correctional officer, firefighter,
27 or law enforcement officer as defined in Section 36-27-59, on

1 each and every payroll period eight and one-quarter percent
2 (8.25%) of his or her earnable compensation. In determining
3 the amount earnable by a member in a payroll period, the Board
4 of Control may consider the rate of annual compensation
5 payable to such member on the first day of the payroll period
6 as continuing through such payroll period, and it may omit
7 deductions from compensation for any period less than a full
8 payroll period if an employee was not a member on the first
9 day of the payroll period, and, to facilitate the making of
10 deductions, it may modify the deductions required of any
11 member by such an amount as shall not exceed one tenth of one
12 percent of the annual compensation upon the basis of which
13 such deductions are made.

14 "The deductions provided for in this subsection
15 shall be made notwithstanding that the minimum compensation
16 provided for by law for any member shall be reduced thereby.
17 Every member shall be deemed to consent and agree to the
18 deduction made and provided for in this subsection and shall
19 receipt for his or her full salary or compensation and payment
20 of salary or compensation less such deductions shall be a full
21 and complete discharge and acquittance of all claims and
22 demands whatsoever for the services rendered by such person
23 during the period covered by such payment, except as to the
24 benefits provided under this article. The employer shall
25 certify to the Board of Control in each and every payroll or
26 in such other manner as the board may prescribe the amounts to
27 be deducted, and each of the amounts shall be deducted and,

1 when deducted, shall be paid into the Annuity Savings Fund and
2 shall be credited, together with regular interest thereon, to
3 the individual account of the member from whose compensation
4 the deduction was made.

5 "In addition to the contributions deducted from
6 compensation as provided in this subsection, subject to the
7 approval of the Board of Control, any member may deposit in
8 the Annuity Savings Fund by a single payment or by an
9 increased rate of contribution an amount computed to be
10 sufficient to purchase an additional annuity which, together
11 with his or her prospective retirement allowance, will provide
12 for him or her a total retirement allowance not to exceed one
13 half of his or her average final compensation at age 60. Such
14 additional amounts so deposited shall become a part of his or
15 her accumulated contributions, except in the case of
16 retirement, when they shall be treated as excess contributions
17 returnable to the member in cash or as an annuity of
18 equivalent actuarial value and shall not be considered in
19 computing his or her pension.

20 "The contributions and interest credits of a member
21 withdrawn by him or her or paid to his or her estate or to his
22 or her designated beneficiary in event of his or her death
23 shall be paid from the Annuity Savings Fund. Should a member
24 cease to be a member other than by retirement under the
25 provisions of this article, an amount equivalent to the
26 difference, if any, between his or her accumulated
27 contributions and the amount then paid shall be transferred to

1 the Expense Fund. Upon the retirement of a member or the death
2 of an eligible member where an allowance to a surviving spouse
3 or other designated beneficiary is payable, his or her
4 accumulated contributions shall be transferred from the
5 Annuity Savings Fund to the Pension Accumulation Fund.

6 "Notwithstanding the preceding provisions, no
7 deductions shall be made from any member's salary on account
8 of which the employer's contributions are in default.

9 "The State Personnel Board, with the approval of the
10 Governor, may provide that the state shall pick up member
11 contributions to the Employees' Retirement System of Alabama
12 as required by this subsection on behalf of all state
13 employees who participate in the Employees' Retirement System
14 by a corresponding reduction in the salary of the member, such
15 pick-up to be mandatory for all such employees, and the
16 contributions so picked up shall be treated as employer
17 contributions in determining tax treatment under the Internal
18 Revenue Code. These contributions shall be paid from the same
19 source of funds which is used in paying earnings to the
20 employee. If employee contributions are so picked up they
21 shall be treated for all other purposes of state law in the
22 same manner and to the same extent as employee contributions
23 made prior to the date picked up.

24 "(c) Pension Accumulation Fund. The Pension
25 Accumulation Fund shall be the fund in which shall be
26 accumulated all reserves other than the amounts held in the
27 Annuity Savings Fund for the payment of all pensions, all

1 allowances granted to surviving spouses or other designated
2 beneficiaries and other benefits payable from contributions
3 made by the employer and from which shall be paid all
4 pensions, all allowances granted to surviving spouses or other
5 designated beneficiaries and other benefits on account of
6 members with prior service credit.

7 "Contributions to and payments from the Pension
8 Accumulation Fund shall be made as follows: On account of each
9 member there shall be paid monthly by the employer an amount
10 equal to a certain percentage of the earnable compensation of
11 each member to be known as the "normal contribution" and an
12 additional amount equal to a percentage of his or her earnable
13 compensation to be known as the "accrued liability
14 contribution," and these two amounts shall be paid monthly
15 into the Pension Accumulation Fund; provided, that in the case
16 of a state policeman, such percentage rates of contributions
17 shall be calculated separately. The percentage rate of such
18 contributions shall be fixed for each fiscal year on the basis
19 of the liabilities of the retirement system as shown by the
20 last annual actuarial valuation, and such percentage rate as
21 established by such valuation shall take effect the following
22 October 1 and continue in effect for the fiscal year.

23 "On the basis of regular interest and of such
24 mortality and other tables as shall be adopted by the Board of
25 Control, the actuary engaged by the board to make such
26 valuation required by this article during the period over
27 which the accrued liability contribution is payable shall,

1 immediately after making such valuation, determine the uniform
2 and constant percentage of the earnable compensation of the
3 average new entrant which, if contributed on the basis of his
4 or her compensation throughout his or her entire period of
5 active service, would be sufficient to provide for the payment
6 of any pension payable on his or her account. The percentage
7 rate so determined shall be known as the "normal contribution"
8 rate. The normal rate of contributions shall be determined by
9 the actuary after each valuation.

10 "The accrued liability contribution rate shall be
11 computed by the actuary on the basis of each valuation as the
12 percentage rate of the total annual compensation of all
13 members which is sufficient to liquidate the accrued liability
14 over a period to be determined by the Board of Control which
15 shall be not less than 10 nor more than 30 years.

16 "The unfunded accrued liability shall be computed by
17 the actuary as the total liabilities of the system which are
18 not dischargeable by the assets of the Annuity Savings Fund
19 and the Pension Accumulation Fund and the present value of the
20 aforesaid normal contributions.

21 "For purposes of computing the unfunded accrued
22 liability the assets shall be determined as follows:

23 "On September 30, 1997, the assets shall be
24 determined by using the market value of such assets. For
25 subsequent years the value of the assets shall be determined
26 by the system's actuary using a five year smoothed market
27 value.

1 "The total amount payable in each year to the
2 Pension Accumulation Fund shall be not less than the sum of
3 the percentage rates known as the normal contribution rate and
4 the accrued liability contribution rate of the total
5 compensation earnable by all members during the preceding
6 year.

7 "All interest and dividends earned on the funds of
8 the retirement system shall be credited to the Pension
9 Accumulation Fund. The amounts needed to allow a regular
10 interest on the reserves in the Annuity Savings Fund shall be
11 transferred in accordance with this article from the Pension
12 Accumulation Fund. The Board of Control, in its discretion,
13 may transfer to and from the Pension Accumulation Fund the
14 amounts of any surplus or deficit which may develop in the
15 Annuity Savings Fund, or the Expense Fund.

16 "Upon the death of a member on account of whom no
17 survivor allowance is payable under subdivisions (2) and (3)
18 of subsection (c) of Section 36-27-16, the death benefit as
19 provided in subdivision (4) of subsection (c) of Section
20 36-27-16 equal to the accumulated contributions, not to exceed
21 \$5,000.00, shall be payable from the Pension Accumulation
22 Fund.

23 "(d) Expense Fund. The Expense Fund shall be the
24 fund from which the expenses of the administration of the
25 retirement system shall be paid, exclusive of amounts payable
26 as retirement allowances and as other benefits provided in
27 this chapter. In addition thereto and on account of each

1 member of the retirement system, there shall be paid monthly
2 by the employer an amount equal to a certain percentage of the
3 earnable compensation of each member for the administrative
4 expenses of the retirement system. The percentage rate of such
5 contribution shall be fixed by the Board of Control on the
6 basis of the cost exclusive of that provided by interest not
7 returnable. Any amounts credited to the accounts of the
8 members withdrawing before retirement and not returnable under
9 the provisions of subsection (c) of Section 36-27-16 shall be
10 credited to the Expense Fund.

11 "(e) Employer's contributions. For each biennium
12 beginning October 1, 1965, each employer shall pay to the
13 retirement system the rates provided in this section and
14 thereafter, at least 30 days preceding October 1 of each
15 fiscal year, the Board of Control shall certify to the chief
16 fiscal officer of each employer the percentage rates of
17 earnable compensation of the members required to be paid to
18 the retirement system in accordance with subsections (c) and
19 (d) of this section.

20 "The employer's contribution on account of the
21 membership of employees whose salaries are paid in whole or in
22 part from funds derived from federal grants shall be paid from
23 funds derived from the federal grants in accordance with
24 statutes governing the administration of the grants and in
25 proportion to salaries paid therefrom. At such time and in
26 such manner as may be required, the Board of Control shall
27 certify to each department of state receiving a federal grant

1 the amount due and payable from the grant as the employer's
2 contribution to the retirement system on account of the
3 membership of the department whose salaries are paid in whole
4 or in part from funds derived from such federal grants. The
5 fiscal agent of the department shall authorize the state
6 Comptroller to draw a warrant or warrants in payment of the
7 amount certified as due and payable from federal grants.

8 "(f) Appropriations. There is hereby appropriated
9 annually from the fund from which salaries of the employees of
10 each employer are paid the amounts sufficient to carry out the
11 provisions of this section. In the case of those departments
12 supported wholly by transfers from other state funds, there is
13 hereby appropriated from the supporting funds such additional
14 amounts as may be necessary to pay the employer contribution
15 of each department so supported in the same proportion as the
16 other state funds contribute to the support and maintenance of
17 such department.

18 "(g) Employer cost provided for in this article
19 together with member contributions required under this article
20 shall be paid to the Employees' Retirement System on the first
21 day of the month following the month in which the related
22 member salary is earned. Delinquent accounts shall accrue
23 interest at the actuarial assumed investment rate beginning 30
24 days after the original due date. The member contributions for
25 each member shall be reported to the Employees' Retirement
26 System in a format prescribed by the Employees' Retirement
27 System."

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