

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

ENGROSSED

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§12-17-227.6.

"(a) Should a member cease to be a district attorney except by death or by retirement under the provisions of this division, the contributions standing to the credit of his or her individual account in the fund shall be paid to him or her upon demand and, in addition to ~~such~~ the payment, there shall

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

11 "(b) In case of the death of a member eligible for
12 service retirement pursuant to Section 12-17-227.4, an
13 allowance shall be paid to the surviving spouse, if designated
14 as the sole beneficiary, in an amount that would have been
15 payable if the member had retired immediately prior to his or
16 her death and had elected Option 2, as set forth in subsection
17 (d), or to such other person who the member shall have
18 designated, in an amount that would have been payable if the
19 member had retired immediately prior to his or her death and
20 had elected Option 3, as set forth in subsection (d) ~~or~~,
21 ~~alternatively~~. Alternatively, if the surviving spouse or
22 other designee desires, he or she may choose to receive, in
23 lieu of the allowance provided under Option 2 or Option 3, the
24 accumulated contributions of the member plus an amount equal
25 to the accumulated contributions of the member not to exceed
26 ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated
27 contributions of the member plus the benefit provided by

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

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

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

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

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

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

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

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

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

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

17 "§12-18-156.

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

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

6 "(b) In case of the death of a member eligible for
7 service retirement pursuant to Section 12-18-154, an allowance
8 shall be paid to the surviving spouse, if designated as the
9 sole beneficiary, in an amount that would have been payable if
10 the member had retired immediately prior to his or her death
11 and had elected Option 2, as set forth in subsection (d), or
12 to such other person who the member shall have designated, in
13 an amount that would have been payable if the member had
14 retired immediately prior to his or her death and had elected
15 Option 3, as set forth in subsection (d) or, alternatively.
16 Alternatively, if the surviving spouse or other designee
17 desires, he or she may choose to receive, in lieu of the
18 allowance provided under Option 2 or Option 3, the accumulated
19 contributions of the member plus an amount equal to the
20 accumulated contributions of the member not to exceed
21 ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated
22 contributions of the member plus the benefit provided by
23 Section 36-27B-3 if a benefit is payable under such that
24 section.

25 "(c) Upon the death of a member on account of whom
26 no survivor allowance is payable under subsection (b), the
27 accumulated contributions of the member plus an amount equal

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

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

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

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

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

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

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

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

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

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

22 "§16-25-14.

23 "(a) (1) Any Tier I plan member who withdraws from
24 service upon or after attainment of age 60 and any Tier II
25 plan member who withdraws from service upon or after
26 attainment of age 62, or in the case of a Tier II plan member
27 who is a correctional officer, firefighter, or law enforcement

1 officer as defined in Section 36-27-59, who withdraws from
2 service upon or after attainment of age 56 with at least ~~ten~~
3 10 years of creditable service as a correctional officer,
4 firefighter, or law enforcement officer may retire upon
5 written application to the Board of Control setting forth at
6 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, that any such member who
9 became a member on or after October 1, 1963, shall have
10 completed 10 or more years of creditable service.

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

26 "(3) Any person who is presently covered or is
27 eligible to be covered under the Employees' Retirement System

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

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

22 "(b) Upon retirement from service, a Tier I plan
23 member shall receive a service retirement allowance which
24 shall consist of:

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

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

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

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

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

4 "(2) If he or she became a member before October 1,
5 1971, ~~\$72~~ seventy-two dollars (\$72) multiplied by the number
6 of years of his or her creditable service not in excess of 25
7 years.

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

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

24 "(e) Upon the application of a Tier I plan member in
25 service or of his or her employer, any member who has had 10
26 or more years of creditable service may be retired by the
27 Board of Control on a disability retirement allowance not less

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

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

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

4 "(2) A pension which shall be equal to the pension
5 that would have been payable under subdivisions (2) and (3) of
6 subsection (b) of this section upon service retirement at age
7 60 had the member continued in service to that age without
8 change in compensation.

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

12 "a. Two and one-eightieth percent of the member's
13 average final compensation multiplied by the number of years
14 of creditable service.

15 "b. If he or she became a member before October 1,
16 1971, ~~\$54 fifty-four dollars (\$54)~~ multiplied by the number of
17 years of his or her creditable service not in excess of 25
18 years.

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

23 "(g) Upon retirement for disability, a Tier II plan
24 member shall receive a service retirement allowance if the
25 member has attained age 62, or in the case of a Tier II plan
26 member who is a correctional officer, firefighter, or law
27 enforcement officer as defined in Section 36-27-59, if the

1 member has attained age 56 with at least ~~ten~~ 10 years of
2 creditable service as a correctional officer, firefighter, or
3 law enforcement officer, otherwise, the member shall receive a
4 disability retirement allowance which shall be equal to one
5 and sixty-five hundredths percent (1.65%) of the member's
6 average final compensation multiplied by the number of years
7 of creditable service.

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

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

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

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

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

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

1 the allowance provided under Option 2 or Option 3, the
2 accumulated contributions of the member plus an amount equal
3 to the accumulated contributions of the member not to exceed
4 ~~\$5,000~~ five thousand dollars (\$5,000) or the accumulated
5 contributions of the member plus the benefit provided by
6 Section 36-27B-3 if a benefit is payable under ~~such that~~
7 section. For purposes of this subsection only, hazardous duty
8 time, as set forth in subdivision (b) (1) of Section 36-27-59,
9 may be used in calculating the requisite years of service for
10 firefighters, law enforcement officers, and correctional
11 officers even if the member has not otherwise attained 25
12 years of creditable 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~~ five thousand dollars (\$5,000) or the accumulated
18 contributions of the member plus the benefit provided by
19 Section 36-27B-3 if a benefit is payable under ~~such that~~
20 section shall be paid to his or her estate or to such person
21 as he or she shall have nominated by written designation duly
22 executed and filed with the Board of Control.

23 "(j) With the provision the election of an option
24 shall be effective on the effective date of retirement, any
25 member may elect prior to retirement to receive, in lieu of
26 his or her retirement allowance payable throughout life, the
27 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 the other benefit
24 or 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 the beneficiary who
15 has 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 the
21 beneficiary whose retirement allowance has been suspended
22 shall repay to the system all ~~money~~ monies received by him or
23 her as benefits during any period subsequent to the date of
24 his or her reentry into active service; provided further, that
25 he or she shall make a contribution equal to the amount he or
26 she would have contributed had he or she been a member during
27 the period of his or her restoration to active service on a

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

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

26 "(2) Any person who served at least 30 years as a
27 teacher in the public schools of Alabama and was never a

1 member of the system and who, prior to October 1, 1963, was in
2 receipt of a benefit for old age assistance pursuant to
3 subsections (1) and (2) of Section 1 of Act 116, approved
4 August 24, 1959, shall be entitled to receive an annual
5 retirement allowance of ~~\$3,960~~ three thousand nine hundred
6 sixty dollars (\$3,960) from the system, effective as of
7 October 1, 1973.

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

22 "(m) 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 "(n) 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 "(o) 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 "§36-27-16.

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

a. Any Tier I plan member who withdraws from service upon or after attainment of age 60 and any Tier II plan member who withdraws from service upon or after attainment of age 62 may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he or she desires to be retired; provided, that any such member who became a member on or after October 1, 1963, shall have completed 10 or more years of creditable service; provided further, that a Tier I plan member employed as a state policeman shall be eligible to file application for service retirement upon attaining age 52 and a Tier II plan member employed as a state policeman or employed as a correctional officer, firefighter, or law enforcement officer as defined in Section 36-27-59 with at least ~~ten~~ 10 years of creditable service as a correctional officer, firefighter, or law enforcement officer shall be eligible to file application for service retirement upon attaining age 56.

"b. Any Tier I plan member who has attained age 60, or age 52 in the case of a state policeman and any Tier II plan member who has attained age 62, or age 56 in the case of a state policeman or in the case of a correctional officer, firefighter, or law enforcement officer as defined in Section 36-27-59 who has at least ~~ten~~ 10 years of creditable service as a correctional officer, firefighter, or law enforcement officer, and has previously withdrawn from service may retire upon written application to the Board of Control setting forth

1 at what time, not less than 30 days nor more than 90 days
2 subsequent to the execution and filing thereof, he or she
3 desires to be retired; provided, the member shall have at the
4 time of his or her withdrawal from service completed the age
5 and service requirements established by the Board of Control
6 for eligibility for deferred benefits; provided, that ~~such the~~
7 minimum number of years of creditable service shall not be
8 less than 10 years nor more than 25 years.

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

25 " (2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

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

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

"3. An additional pension, if he or she has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at the age of retirement, but which shall not exceed an annuity allowable at age 65 by twice the contributions which he or she would have made during the period of prior service with which he or she is credited had the system been in operation and had he or

1 she contributed thereunder; except, that in case of a state
2 policeman who has completed 20 years of creditable service as
3 a state policeman who retired after age 56 but prior to age
4 60, an additional pension, if he or she has a prior service
5 certificate in full force and effect, which shall be equal to
6 the annuity which would have been provided at age 60, but
7 which shall not exceed an annuity allowable at age 60 by twice
8 the contributions which he or she would have made during the
9 period of prior service with which he or she is credited had
10 the system been in operation and had he or she contributed
11 thereunder.

12 "b. Notwithstanding the provisions of subparagraphs
13 1., 2., and 3. of paragraph a. of this subdivision, a state
14 policeman who is a Tier I plan member and who has completed 20
15 years of service as a state policeman who retires after age 52
16 but prior to age 56 shall receive:

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

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

23 "3. An additional pension, if he or she has a prior
24 service certificate in full force and effect, which shall be
25 equal to the annuity which would have been provided at the age
26 of retirement, but which shall not exceed an annuity allowable
27 at the age of retirement plus four years by twice the

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

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

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

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

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

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

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

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

26 "e. Upon retirement from service, a Tier II plan
27 member who is not employed as a state policeman shall receive

1 a service retirement allowance which shall consist of an
2 annuity which shall be the actuarial equivalent of the
3 member's accumulated contributions at the time of retirement
4 and a pension which, when added to the member's annuity, shall
5 be equal to one and sixty-five hundredths percent (1.65%) of
6 the member's average final compensation multiplied by the
7 number of years of creditable service. Notwithstanding the
8 foregoing, the service retirement allowance shall not exceed
9 eighty percent (80%) of the member's average final
10 compensation.

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

23 "g. Anything in this article to the contrary
24 notwithstanding, in the application of the foregoing
25 provisions of this subdivision to a member whose creditable
26 service includes a period of service as a state policeman and
27 a period of service in another employment classification, the

1 benefit rates applicable to a member employed as a state
2 policeman shall apply to all creditable service as a state
3 policeman, and the benefit rates applicable to a member not
4 employed as a state policeman shall apply to all creditable
5 service, but in all other respects the pension under this
6 subdivision shall be determined on the basis of the member's
7 employment classification at the time of his or her withdrawal
8 from service.

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

17 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;
18 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

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

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

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

1 that the medical board, after a medical examination of ~~such~~
2 ~~the~~ member shall certify that ~~such~~ ~~the~~ member is mentally or
3 physically incapacitated for the further performance of duty,
4 that ~~such~~ ~~the~~ incapacity is likely to be permanent, and that
5 ~~such~~ ~~the~~ member should be retired.

6 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

7 "a. Upon retirement for disability a member shall
8 receive a service retirement allowance if he or she is a Tier
9 I plan member and he or she has attained age 60 or if he or
10 she is a Tier II plan member and he or she has attained age
11 62, or if any law or part of any law pertaining to retirement
12 under the Employees' Retirement System of Alabama provides for
13 service retirement after the completion of 25 years of
14 creditable service without a reduction in the retirement
15 allowance and the member has completed 25 years of creditable
16 service, or, in the case of a state policeman, if he or she is
17 a Tier I plan member and he or she has attained age 52 or, in
18 the case of a state policeman or a correctional officer,
19 firefighter, or law enforcement officer as defined in Section
20 36-27-59 with at least ~~ten~~ 10 years of creditable service as a
21 correctional officer, firefighter, or law enforcement officer,
22 if he or she is a Tier II plan member and he or she has
23 attained age 56; otherwise, he or she shall receive a
24 disability retirement allowance which shall consist of:

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

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

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

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

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

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

"1. Two and seven-eighths percent of the member's average final compensation multiplied by the number of years of his or her creditable service. Creditable service for any 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, ~~\$64.80~~ sixty-four dollars eighty cents (\$64.80)
8 multiplied by the number of years of his or her creditable
9 service not in excess of 25 years.

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

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

20 "f. Anything in this chapter to the contrary
21 notwithstanding in the application of the provisions of this
22 subdivision to a member whose creditable service includes a
23 period of service as a state policeman and a period of service
24 in another employment classification the benefit rates
25 applicable to a member employed as a state policeman shall
26 apply to all creditable service as a state policeman, and the
27 benefit rates applicable to a member not employed as a state

1 policeman shall apply to all other creditable service, but in
2 all other respects the pension under this subdivision shall be
3 determined on the basis of the member's employment
4 classification at the time of his or her withdrawal from
5 service.

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

1 if he or she is a Tier I plan member or in the case of a state
2 policeman or a correctional officer, firefighter, or law
3 enforcement officer as defined in Section 36-27-59 with at
4 least ~~ten~~ 10 years of creditable service as a correctional
5 officer, firefighter, or law enforcement officer retired for
6 disability who has attained age 56 if he or she is a Tier II
7 plan member. Should the medical board report and certify to
8 the Board of Control that a disability beneficiary who is a
9 Tier I plan member is engaged in or is able to engage in a
10 gainful occupation paying more than the difference between his
11 or her retirement allowance and his or her average final
12 compensation and should the Board of Control concur in ~~such~~
13 the report, then the amount of his or her pension shall be
14 reduced to an amount which, together with his or her annuity
15 and the amount earnable by him or her shall equal the amount
16 of his or her average final compensation. Should his or her
17 earning capacity be later changed, the amount of his or her
18 pension may be further modified; provided, that the new
19 pension shall not exceed the amount of the pension originally
20 granted nor an amount which, when added to the amount earnable
21 by the beneficiary, together with this annuity exceeds the
22 amount of his or her average final compensation.

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

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

3 "(c) Disposition of contributions and allowances
4 upon death, etc., of member.

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

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

been payable if the member had retired immediately prior to his or her death and had elected Option 3, as set forth in subsection (d) of this section ~~or, alternatively.~~

Alternatively, if the surviving spouse or other designee desires, he or she may choose to receive, in lieu of the allowance provided under Option 2 or Option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such that section;

"(3) In case of the death of a Tier I plan member not eligible for service retirement, after completion of 25 years of creditable service, an allowance shall be paid to the surviving spouse, if designated as the sole beneficiary, in an amount that would have been payable if the member had retired immediately prior to his or her death and had elected Option 2, as set forth in subsection (d) of this section, or to such other person who the member shall have designated, in an amount that would have been payable if the member had retired for disability immediately prior to his or her death and had elected Option 3 as set forth in subsection (d) of this section or, alternatively. Alternatively, if the surviving spouse or other designee desires, he or she may choose to receive, in lieu of the allowance provided under Option 2 or Option 3, the accumulated contributions of the member plus an

1 amount equal to the accumulated contributions of the member
2 not to exceed ~~\$5,000.00~~ five thousand dollars (\$5,000) or the
3 accumulated contributions of the member plus the benefit
4 provided by Section 36-27B-3 if a benefit is payable under
5 such that section. For purposes of this subsection only,
6 hazardous duty time, as set forth in subdivision (b)(1) of
7 Section 36-27-59, may be used in calculating the requisite
8 years of service for firefighters, law enforcement officers,
9 and correctional officers even if the member has not otherwise
10 attained 25 years of creditable service;

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

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

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

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

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

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

25 "(5) OPTION 5. At the time of retirement, he or she
26 shall receive a partial lump sum distribution as a single
27 payment not to exceed the sum of 24 months of the maximum

1 monthly retirement allowance the member could receive. This
2 option may be elected in addition to the election of another
3 option under this subsection and the further reduced monthly
4 retirement allowance shall be calculated in accordance with
5 the selected option. This option shall not be available to a
6 member who is receiving a disability retirement.

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

1 period of restoration up to the date such the contribution is
2 made.

3 "(f) (1) REDETERMINATION, ETC., OF CERTAIN
4 ALLOWANCES. All retirement allowance payments due on or after
5 October 1, 1975, to members who retired prior to that date
6 shall be redetermined as if the provisions of this section in
7 effect on October 1, 1975, were in effect at the time the
8 member retired. Anything in this article to the contrary
9 notwithstanding, the annual retirement allowance of any member
10 not employed as a state policeman who retired on or before
11 January 1, 1956, shall not be less than ~~\$79.20~~ seventy-nine
12 dollars twenty cents (\$79.20) multiplied by the number of
13 years of his or her creditable service not in excess of 30
14 years in the case of service retirement of ~~\$59.40~~ fifty-nine
15 dollars forty cents (\$59.40) multiplied by the number of years
16 of his or her creditable service not in excess of 30 years in
17 the case of disability retirement. Any increase provided in
18 the retirement allowance payment under this subdivision for a
19 member who retired under the provisions of any optional
20 benefit elected pursuant to subsection (d) of this section
21 shall accrue only to the retired member, and no person
22 designated to receive any payments after the death of a
23 retired member under the provisions of any such optional
24 benefit shall receive any increase in such payments under this
25 subdivision. Notwithstanding, any member who retired prior to
26 October 1, 1975, and who chose either Option 2 or Option 3 may
27 elect to receive a reduced allowance and to stipulate that the

1 actuarial equivalent of the increase in his or her retirement
2 allowance, which became effective on that date, be ascribed to
3 his or her designated beneficiary; provided, that ~~such the~~
4 member shall clearly express this intention by filing a
5 written application to the effect with the Secretary-Treasurer
6 of the Employees' Retirement System of Alabama prior to
7 October 1, 1976.

8 "(2) Any person who, prior to October 1, 1963, was
9 in receipt of a benefit pursuant to Act No. 376, approved
10 November 6, 1959, but was not a member of the system at the
11 time of retirement shall not be entitled to receive an annual
12 retirement allowance from the system, effective October 1,
13 1971, as follows:

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

19 "b. If ~~such the~~ person was retired after January 1,
20 1956, an amount equal to ~~\$72.00~~ seventy-two dollars (\$72)
21 multiplied by the number of years of his or her creditable
22 service not in excess of 25 years.

23 "(3) Prior to October 31, 1975, any beneficiary may
24 elect to leave on deposit with the system all or a specified
25 part of any increase in his or her monthly retirement
26 allowance payments arising in accordance with subdivisions (1)
27 or (2) of this subsection over the monthly allowance which he

1 or she was receiving prior to October 1, 1975. The portion of
2 each monthly payment left in the system in accordance with
3 ~~such the~~ election shall be credited, together with regular
4 interest thereon, to the individual account of ~~such the~~
5 beneficiary. Upon the death of ~~such the~~ beneficiary the total
6 amount standing to his or her credit, including regular
7 interest to the date of death, shall be paid in a lump sum to
8 his or her legal representatives or to such person as he or
9 she shall have nominated by written designation duly
10 acknowledged and filed with the Board of Control.

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

24 "(h) Notwithstanding any provision of this section
25 to the contrary, if a retired member who is receiving a
26 monthly benefit allowance provided under Option 2, 3, or 4
27 divorces his or her designated beneficiary, the member may

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

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

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

1

2

3

House of Representatives

4 Read for the first time and re-
5 ferred to the House of Representa-
6 tives committee on Ways and Means
7 General Fund..... 18-JAN-22

8

9 Read for the second time and placed
10 on the calendar 1 amendment 02-FEB-22

11

12 Read for the third time and passed
13 as amended..... 08-FEB-22

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Jeff Woodard
Clerk