

1 HB308
2 216794-2
3 By Representative Ingram
4 RFD: Ways and Means General Fund
5 First Read: 08-FEB-22

ENGROSSED

A BILL

TO BE ENTITLED

AN ACT

To amend Sections 36-26-36.1, 36-27-16, as amended by Act 2021-270, 2021 Regular Session, 36-27-24, and 36-27-59, Code of Alabama 1975, relating to retirement benefits for employees who are members of the Employees' Retirement System; to modify the retirement benefits for Tier II plan members of the system by providing 30-year service retirement, allowing the conversion of sick leave into creditable service, and, for firefighters, law enforcement officers, and correctional officers, providing hazardous duty time; and to increase the Tier II plan member contribution rate.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 36-26-36.1, 36-27-16, as amended by Act 2021-270, 2021 Regular Session, 36-27-24, and 36-27-59 of the Code of Alabama 1975, are amended to read as follows:

"§36-26-36.1.

"(a) Any Tier I or Tier II plan member of the Teachers' or Employees' Retirement System of Alabama not otherwise covered by a provision to convert unused sick leave into membership service for purposes of service retirement may, at their option and in lieu of receiving payment for 50

1 percent of their accrued and unused sick leave at the time of
2 their retirement as provided in Section 36-26-36, or any other
3 payment that may be provided for such unused sick leave, use
4 their accrued sick leave, up to a maximum number of 180
5 accrued sick leave days or as otherwise allowed by law,
6 whichever is greater, to be included as membership service in
7 determining the total years of creditable service in the
8 Employees' Retirement System of Alabama or the Teachers'
9 Retirement System of Alabama; provided that no employee of an
10 employer participating in the Employees' Retirement System
11 pursuant to Section 36-27-6 shall be entitled to the benefits
12 provided herein unless such employer shall elect to come under
13 the provisions of this section and further elects to fund the
14 benefits provided herein. Unused sick leave may be converted
15 to membership service only for the purpose of applying for
16 service retirement and may be considered in the determination
17 of eligibility for retirement. The conversion shall not apply
18 to eligibility for deferred retirement. It is further provided
19 that if a Tier I or Tier II plan member eligible for service
20 retirement is also eligible for disability retirement the
21 member may elect disability retirement and also receive credit
22 for accumulated sick leave pursuant to this section. No Tier I
23 or Tier II plan member shall receive both service credit
24 provided for by this section and payment or partial payment
25 for accrued sick leave pursuant to any other provision of law.

1 "(b) The conversion of accrued sick leave into
2 creditable service provided in this section shall not apply to
3 any Tier II plan member.

4 "§36-27-16.

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

7 "a. Any Tier I plan member who withdraws from
8 service upon or after attainment of age 60 and any Tier II
9 plan member who withdraws from service upon or after
10 attainment of age 62 may retire upon written application to
11 the Board of Control setting forth at what time, not less than
12 30 days nor more than 90 days subsequent to the execution and
13 filing thereof, he or she desires to be retired; provided,
14 that any such member who became a member on or after October
15 1, 1963, shall have completed 10 or more years of creditable
16 service; provided further, that a Tier I plan member employed
17 as a state policeman shall be eligible to file application for
18 service retirement upon attaining age 52 and a Tier II plan
19 member employed as a state policeman or employed as a
20 correctional officer, firefighter, or law enforcement officer
21 as defined in Section 36-27-59 with at least ~~ten~~ 10 years of
22 creditable service as a correctional officer, firefighter, or
23 law enforcement officer shall be eligible to file application
24 for service retirement upon attaining age 56.

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

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

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

1 Employees' Retirement System under Section 36-27-6 shall be
2 entitled to the benefits provided in this paragraph for Tier I
3 members unless such employer elects to come under the
4 provisions of the paragraph. Any employer making such election
5 must bear the cost of such benefit.

6 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

10 "1. An annuity which shall be the actuarial
11 equivalent of his or her accumulated contributions at the time
12 of his or her retirement; except, that in the case of a state
13 policeman who has completed 20 years of creditable service as
14 a state policeman who retires after age 56 but prior to age
15 60, the annuity shall be equal to the annuity that would have
16 been payable upon service retirement at age 60 had the member
17 continued in service to age 60 without change in compensation;

18 "2. A pension which shall be equal to the annuity
19 allowance at age of retirement, but not to exceed an annuity
20 allowable at age 65, computed on the basis of contributions
21 made prior to attainment of age 65; except, that in the case
22 of a state policeman who has completed 20 years of creditable
23 service as a state policeman who retires after age 56 but
24 prior to age 60, the pension shall be equal to the annuity
25 that he or she would have received had he or she contributed
26 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 she contributed thereunder; except, that in case of a state policeman who has completed 20 years of creditable service as a state policeman who retired after age 56 but prior to age 60, 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 age 60, but which shall not exceed an annuity allowable at age 60 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 she contributed thereunder.

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

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

"2. A pension which shall be equal to the annuity that he or she would have received had he or she contributed for four years 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 the age of retirement plus four years 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 she contributed thereunder. In lieu of a determination of the actual compensation of a member that was received during such prior service, the Board of Control may use for the purpose of this article the compensation rate which, if it had progressed with the rates of salary increase shown in the tables as prescribed in subsection (n) of Section 36-27-23, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received.

"c. The annual service 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 greater of the following two 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 ~~\$72.00~~ seventy-two dollars (\$72) multiplied by the
6 number of years of his or her creditable service not in excess
7 of 25 years.

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

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

22 "2. If he or she became a member before October 1,
23 ~~\$86.40~~ eighty-six dollars forty cents (\$86.40)
24 multiplied by the number of years of his or her creditable
25 service not in excess of 25 years; provided, however, that if
26 such member has completed 20 years of creditable service as a
27 state policeman and has not attained age 60 at the time of

retirement, the pension shall be determined as provided in this subparagraph on the basis of the number of years of creditable service which he or she would have had if he or she had remained in service for four years, except that, in the case of those state policemen retiring at age 56 or after, the number of years in determining the pension shall not exceed the number of years of creditable service which he or she would have had if he or she had remained in service to age 60.

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

"f. Upon retirement from service, a Tier II plan member who is employed as a state policeman shall receive a service retirement allowance which shall consist of an annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement and a pension which, when added to the member's annuity, shall be equal to two and three-eighths percent (2.375%) of the

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

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

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

"(b) (1) RETIREMENT OF DISABLED EMPLOYEES;

ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

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

"b. Without regard to the number of years of creditable service, a member employed as a state policeman, a municipal police officer or a deputy sheriff, or a member employed as a state, municipal, or county firefighter who is not covered through his or her current employer under the

United States Social Security Act, who as a result of his or her employment, in the line of duty and not as a result of his or her own misconduct, shall become permanently and totally disabled to the extent that he or she cannot perform his or her duties or duties of a less strenuous nature, as an employee of the State of Alabama or as an employee of an employer participating under the provisions of Section 36-27-6, shall be retired on a disability retirement allowance, not less than 30 nor more than 90 days next following the date of filing of such application, provided that the medical board, after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

"(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

"a. Upon retirement for disability, a member shall receive a service retirement allowance if he or she is a Tier I plan member and he or she has attained age 60 or if he or she is a Tier II plan member and he or she has attained age 62, or if any law or part of any law pertaining to retirement under the Employees' Retirement System of Alabama provides for service retirement after the completion of 25 years of creditable service or 30 years of creditable service without a reduction in the retirement allowance and the member has completed 25 years of creditable service or 30 years of creditable service, whichever is applicable, or, in the case

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

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

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

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

24 "1. Two and one-eightieth percent of the member's
25 average final compensation multiplied by the number of years
26 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 years of creditable service as a state policeman shall include a bonus equal to four additional years. Creditable service for a state policeman 56 years or older shall include a bonus equal to the years or portion thereof remaining until the member reaches age 60; or

"2. If he or she became a member before October 1, 1965, ~~\$64.80~~ sixty-four dollars eighty cents (\$64.80) multiplied by the number of years of his or her creditable service not in excess of 25 years.

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

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

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

"(3) REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT OF DISABILITY. Once each year during the first five years following the retirement of a member on a disability retirement allowance and once every three-year period thereafter, the Board of Control may, and upon his or her application shall, require any disability beneficiary who has not yet attained age 60 if the beneficiary is a Tier I plan member or age 62 if the beneficiary is a Tier II plan member to undergo a medical examination, such examination to be made

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

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

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

15 "(c) Disposition of contributions and allowances
16 upon death, etc., of member.

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

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

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

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

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

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

24 "(d) Optional allowances. With the provision that
25 the election of an option shall be effective on the effective
26 date of retirement, any member may elect prior to retirement
27 to receive, in lieu of his or her retirement allowance payable

1 throughout life, the actuarial equivalent, at that time, of
2 his or her retirement allowance in a reduced retirement
3 allowance payable throughout life with the provisions that:

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

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

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

21 "(4) OPTION 4. Some other benefit or benefits shall
22 be paid either to the member or to the person or persons as he
23 or she shall nominate; provided, that such other benefits,
24 together with the reduced retirement allowance, shall be
25 certified by the actuary to be of equivalent actuarial value
26 to his or her retirement allowance and shall be approved by
27 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 "(e) Effect of return to active service. Should any
11 beneficiary be restored to active service, his or her
12 retirement allowance shall be suspended until he or she again
13 withdraws from service and he or she shall not again become a
14 member of the retirement system nor shall he or she make
15 contributions; except, that should such beneficiary who has
16 been restored to active service continue in service for a
17 period of two or more years from the date of his or her
18 reentry into active service, he or she may request the Board
19 of Control to allow him or her to again become a member of the
20 retirement system. The Board of Control may grant the request
21 for restoration to membership; provided, that such beneficiary
22 whose retirement allowance has been suspended shall repay to
23 the system all ~~moneys~~ monies received by him or her as
24 benefits during any periods subsequent to the date of his or
25 her reentry into active service and shall make a contribution
26 equal to the amount he or she would have contributed had he or
27 she been a member during the period of his or her restoration

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

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

1 October 1, 1975, and who chose either Option 2 or Option 3 may
2 elect to receive a reduced allowance and to stipulate that the
3 actuarial equivalent of the increase in his or her retirement
4 allowance, which became effective on that date, be ascribed to
5 his or her designated beneficiary; provided, that such member
6 shall clearly express this intention by filing a written
7 application to the effect with the Secretary-Treasurer of the
8 Employees' Retirement System of Alabama prior to October 1,
9 1976.

10 "(2) Any person who, prior to October 1, 1963, was
11 in receipt of a benefit pursuant to Act No. 376, approved
12 November 6, 1959, but was not a member of the system at the
13 time of retirement, shall not be entitled to receive an annual
14 retirement allowance from the system, effective October 1,
15 1971, as follows:

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

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

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

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

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

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

divorces his or her designated beneficiary, the member may designate a replacement beneficiary for the beneficiary to become effective two years after the date of designation of the replacement beneficiary and an actuarial adjustment in the monthly benefit allowance of the member to cover any cost associated with designating a replacement beneficiary shall be reflected thereafter in the monthly benefit allowance received by the member, commencing with the first benefit allowance check received by the member following the date of designation of the replacement beneficiary.

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

"§36-27-24.

"(a) Effective October 1, 1997, all the assets of the retirement system shall be credited according to the purpose for which they are held among three funds, namely, the Annuity Savings Fund, the Pension Accumulation Fund, and the Expense Fund. The operation of the former Pension Reserve Fund and the Annuity Reserve Fund shall be discontinued as of such date and the balance of the former Pension Reserve Fund shall be transferred to the Pension Accumulation Fund, and the balance of the former Annuity Reserve Fund shall be transferred to the Pension Accumulation Fund.

"(b) Annuity Savings Fund. The Annuity Savings Fund shall be a fund in which shall be accumulated contributions

1 from the compensation of members to provide for their
2 annuities.

3 "Contributions to and payments from the Annuity
4 Savings Fund shall be made as follows: Effective October 1,
5 1971, each employer shall cause to be deducted from the salary
6 of each member on each and every payroll of such employer for
7 each and every payroll period five percent of his or her
8 earnable compensation; except, that in the case of a state
9 policeman, the rate of 10 percent of earnable compensation
10 shall apply, and in computing all retirement benefits it shall
11 be assumed that a seven percent rate of contribution had
12 applied with respect to service as a state policeman prior to
13 July 1, 1957. For all pay dates beginning on or after October
14 1, 2011, each employer, except those employers participating
15 pursuant to Section 36-27-6, shall cause to be deducted from
16 the salary of each member on each and every payroll of such
17 employer for each and every payroll period seven and
18 one-quarter percent (7.25%) of his or her earnable
19 compensation; except, that in the case of a state policeman,
20 the rate of ten percent (10%) of earnable compensation shall
21 apply. For all pay dates beginning on or after October 1,
22 2012, each employer, except those employers participating
23 pursuant to Section 36-27-6, shall cause to be deducted from
24 the salary of each Tier I plan member on each and every
25 payroll of such employer for each and every payroll period
26 seven and one-half percent (7.5%) of his or her earnable
27 compensation; except, that in the case of a state policeman,

1 the rate of ten percent (10%) of earnable compensation shall
2 apply. For all pay dates beginning on or after January 1,
3 2013, each employer shall cause to be deducted from the salary
4 of each Tier II plan member on each and every payroll period
5 six percent (6%) of his or her earnable compensation; except
6 that in the case of a state policeman, the rate of ten percent
7 (10%) shall apply and in the case of a correctional officer,
8 firefighter, or law enforcement officer as defined in Section
9 36-27-59, the rate of seven percent (7%) shall apply. For all
10 pay dates beginning on or after October 1, 2022, for all
11 employers, each employer shall cause to be deducted from the
12 salary of each Tier II plan member on each and every payroll
13 period six and one-half percent (6.5%) of his or her earnable
14 compensation. Any employer participating under Section
15 36-27-6, by adoption of a resolution, may elect for the
16 increases in employee contributions provided by Act 2011-676
17 to be withheld from the earnable compensation of employees of
18 the employer. In determining the amount earnable by a member
19 in a payroll period, the Board of Control may consider the
20 rate of annual compensation payable to such member on the
21 first day of the payroll period as continuing through such
22 payroll period, and it may omit deductions from compensation
23 for any period less than a full payroll period if an employee
24 was not a member on the first day of the payroll period, and,
25 to facilitate the making of deductions, it may modify the
26 deductions required of any member by such an amount as shall

1 not exceed one tenth of one percent of the annual compensation
2 upon the basis of which such deductions are made.

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

21 "In addition to the contributions deducted from
22 compensation as provided in this subsection, subject to the
23 approval of the Board of Control, any member may deposit in
24 the Annuity Savings Fund by a single payment or by an
25 increased rate of contribution an amount computed to be
26 sufficient to purchase an additional annuity which, together
27 with his or her prospective retirement allowance, will provide

1 for him or her a total retirement allowance not to exceed one
2 half of his or her average final compensation at age 60. Such
3 additional amounts so deposited shall become a part of his or
4 her accumulated contributions, except in the case of
5 retirement, when they shall be treated as excess contributions
6 returnable to the member in cash or as an annuity of
7 equivalent actuarial value and shall not be considered in
8 computing his or her pension.

9 "The contributions and interest credits of a member
10 withdrawn by him or her or paid to his or her estate or to his
11 or her designated beneficiary in event of his or her death
12 shall be paid from the Annuity Savings Fund. Should a member
13 cease to be a member other than by retirement under the
14 provisions of this article, an amount equivalent to the
15 difference, if any, between his or her accumulated
16 contributions and the amount then paid shall be transferred to
17 the Expense Fund. Upon the retirement of a member or the death
18 of an eligible member where an allowance to a surviving spouse
19 or other designated beneficiary is payable, his or her
20 accumulated contributions shall be transferred from the
21 Annuity Savings Fund to the Pension Accumulation Fund.

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

25 "The State Personnel Board, with the approval of the
26 Governor, may provide that the state shall pick up member
27 contributions to the Employees' Retirement System of Alabama

as required by this subsection on behalf of all state employees who participate in the Employees' Retirement System by a corresponding reduction in the salary of the member, such pick-up to be mandatory for all such employees, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code. These contributions shall be paid from the same source of funds which is used in paying earnings to the employee. If employee contributions are so picked up they shall be treated for all other purposes of state law in the same manner and to the same extent as employee contributions made prior to the date picked up.

"(c) Pension Accumulation Fund. The Pension Accumulation Fund shall be the fund in which shall be accumulated all reserves other than the amounts held in the Annuity Savings Fund for the payment of all pensions, all allowances granted to surviving spouses or other designated beneficiaries and other benefits payable from contributions made by the employer and from which shall be paid all pensions, all allowances granted to surviving spouses or other designated beneficiaries and other benefits on account of members with prior service credit.

"Contributions to and payments from the Pension Accumulation Fund shall be made as follows: On account of each member there shall be paid monthly by the employer an amount equal to a certain percentage of the earnable compensation of each member to be known as the "normal contribution" and an

1 additional amount equal to a percentage of his or her earnable
2 compensation to be known as the "accrued liability
3 contribution," and these two amounts shall be paid monthly
4 into the Pension Accumulation Fund; provided, that in the case
5 of a state policeman, such percentage rates of contributions
6 shall be calculated separately. The percentage rate of such
7 contributions shall be fixed for each fiscal year on the basis
8 of the liabilities of the retirement system as shown by the
9 last annual actuarial valuation, and such percentage rate as
10 established by such valuation shall take effect the following
11 October 1 and continue in effect for the fiscal year.

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

26 "The accrued liability contribution rate shall be
27 computed by the actuary on the basis of each valuation as the

1 percentage rate of the total annual compensation of all
2 members which is sufficient to liquidate the accrued liability
3 over a period to be determined by the Board of Control which
4 shall be not less than 10 nor more than 30 years.

5 "The unfunded accrued liability shall be computed by
6 the actuary as the total liabilities of the system which are
7 not dischargeable by the assets of the Annuity Savings Fund
8 and the Pension Accumulation Fund and the present value of the
9 aforesaid normal contributions.

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

12 "On September 30, 1997, the assets shall be
13 determined by using the market value of such assets. For
14 subsequent years the value of the assets shall be determined
15 by the system's actuary using a five year smoothed market
16 value.

17 "The total amount payable in each year to the
18 Pension Accumulation Fund shall be not less than the sum of
19 the percentage rates known as the normal contribution rate and
20 the accrued liability contribution rate of the total
21 compensation earnable by all members during the preceding
22 year.

23 "All interest and dividends earned on the funds of
24 the retirement system shall be credited to the Pension
25 Accumulation Fund. The amounts needed to allow a regular
26 interest on the reserves in the Annuity Savings Fund shall be
27 transferred in accordance with this article from the Pension

1 Accumulation Fund. The Board of Control, in its discretion,
2 may transfer to and from the Pension Accumulation Fund the
3 amounts of any surplus or deficit which may develop in the
4 Annuity Savings Fund, or the Expense Fund.

5 "Upon the death of a member on account of whom no
6 survivor allowance is payable under subdivisions (2) and (3)
7 of subsection (c) of Section 36-27-16, the death benefit as
8 provided in subdivision (4) of subsection (c) of Section
9 36-27-16 equal to the accumulated contributions, not to exceed
10 \$5,000.00 five thousand dollars (\$5,000), shall be payable
11 from the Pension Accumulation Fund.

12 "(d) Expense Fund. The Expense Fund shall be the
13 fund from which the expenses of the administration of the
14 retirement system shall be paid, exclusive of amounts payable
15 as retirement allowances and as other benefits provided in
16 this chapter. In addition thereto and on account of each
17 member of the retirement system, there shall be paid monthly
18 by the employer an amount equal to a certain percentage of the
19 earnable compensation of each member for the administrative
20 expenses of the retirement system. The percentage rate of such
21 contribution shall be fixed by the Board of Control on the
22 basis of the cost exclusive of that provided by interest not
23 returnable. Any amounts credited to the accounts of the
24 members withdrawing before retirement and not returnable under
25 the provisions of subsection (c) of Section 36-27-16 shall be
26 credited to the Expense Fund.

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

"The employer's contribution on account of the membership of employees whose salaries are paid in whole or in part from funds derived from federal grants shall be paid from funds derived from the federal grants in accordance with statutes governing the administration of the grants and in proportion to salaries paid therefrom. At such time and in such manner as may be required, the Board of Control shall certify to each department of state receiving a federal grant the amount due and payable from the grant as the employer's contribution to the retirement system on account of the membership of the department whose salaries are paid in whole or in part from funds derived from such federal grants. The fiscal agent of the department shall authorize the state Comptroller to draw a warrant or warrants in payment of the amount certified as due and payable from federal grants.

"(f) Appropriations. There is hereby appropriated annually from the fund from which salaries of the employees of each employer are paid the amounts sufficient to carry out the

1 provisions of this section. In the case of those departments
2 supported wholly by transfers from other state funds, there is
3 hereby appropriated from the supporting funds such additional
4 amounts as may be necessary to pay the employer contribution
5 of each department so supported in the same proportion as the
6 other state funds contribute to the support and maintenance of
7 such department.

8 "(g) Employer cost provided for in this article
9 together with member contributions required under this article
10 shall be paid to the Employees' Retirement System on the first
11 day of the month following the month in which the related
12 member salary is earned. Delinquent accounts shall accrue
13 interest at the actuarial assumed investment rate beginning 30
14 days after the original due date. The member contributions for
15 each member shall be reported to the Employees' Retirement
16 System in a format prescribed by the Employees' Retirement
17 System.

18 "§36-27-59.

19 "(a) When used in this section, the following terms
20 shall have the following meanings, unless the context clearly
21 indicates otherwise:

22 "(1) CORRECTIONAL OFFICER. A full-time correctional
23 officer who is certified as a correctional officer by the
24 Alabama Peace Officers' Standards and Training Commission.

25 "(2) FIREFIGHTER. A full-time firefighter employed
26 with the State of Alabama, a municipal fire department, or a
27 fire district who has a level one minimum standard

1 certification by the Firefighters Personnel Standards and
2 Education Commission, or a firefighter employed by the Alabama
3 Forestry Commission who has been certified by the State
4 Forester as having met the wild land firefighter training
5 standard of the National Wildfire Coordinating Group.

6 "(3) LAW ENFORCEMENT OFFICER. A full-time law
7 enforcement officer, not covered as a state policeman,
8 employed with any state agency, department, board, commission,
9 or institution or a full-time law enforcement officer employed
10 by a local unit of the Employees' Retirement System under
11 Section 36-27-6 who is certified as a law enforcement officer
12 by the Alabama Peace Officers' Standards and Training
13 Commission.

14 "(b) (1) Any firefighter, law enforcement officer, or
15 correctional officer covered under the Employees' Retirement
16 System or the Teachers' Retirement System as a Tier I or Tier
17 II plan member, upon attainment of the requisite years of
18 creditable service or who otherwise qualifies for service or
19 disability retirement, shall be awarded one year of hazardous
20 duty time for every five years of service as a firefighter, a
21 law enforcement officer, or a correctional officer provided
22 that the person has made the additional contribution provided
23 in subdivision (2) or paid the additional contribution
24 required in subsection (c) for each year of service used in
25 determining hazardous duty time for the person. Proportional
26 credit shall be awarded for any period of service less than
27 five years.

"(2) Effective January 1, 2001, and each pay period thereafter, each active employee who is a firefighter, law enforcement officer, or correctional officer, as defined in subsection (a), shall contribute to the Teachers' or Employees' Retirement System of Alabama six percent of his or her earnable compensation. For all pay dates beginning on or after October 1, 2011, each active employee who is a firefighter, law enforcement officer, or correctional officer, as defined in subsection (a), except those employees participating pursuant to Section 36-27-6, shall contribute to the Teachers' or Employees' Retirement System of Alabama eight and one-quarter percent (8.25%) of his or her earnable compensation. For all pay dates beginning on or after October 1, 2012, each active employee who is a Tier I plan member and who is a firefighter, law enforcement officer, or correctional officer, as defined in subsection (a), except those employees participating pursuant to Section 36-27-6, shall contribute to the Teachers' or Employees' Retirement System of Alabama eight and one-half percent (8.5%) of his or her earnable compensation. For all pay dates beginning on or after October 1, 2022, each active employee who is a Tier II plan member and who is a firefighter, law enforcement officer, or correctional officer, as defined in subsection (a), shall contribute to the Teachers' or Employees' Retirement Systems of Alabama seven and one-half percent (7.50%) of his or her earnable compensation. Any employer participating under Section 36-27-6, by adoption of a resolution, may elect for the

1 increases in employee contributions provided by Act 2011-676
2 to be withheld from the earnable compensation of employees of
3 the employer.

4 "(c) Any member of the Employees' Retirement System
5 or the Teachers' Retirement System eligible under subsection
6 (b) may receive credit for his or her eligible prior service
7 provided the member pays to the Secretary-Treasurer of the
8 Employees' Retirement System or the Secretary-Treasurer of the
9 Teachers' Retirement System one percent of his or her current
10 annual earnable compensation or previous year's annual
11 earnable compensation, whichever is higher, for each year of
12 claimed credit within two years of January 1, 2001, except
13 that any firefighter employed by the Alabama Forestry
14 Commission shall make such payment within two years of
15 December 28, 2001. Any member participating in the Employees'
16 Retirement System under Section 36-27-6, who has eligible
17 prior service under this section and who also had no prior
18 eligibility to purchase prior service credit under this
19 subsection, may purchase prior service credit under this
20 section at the same rate provided in subsection (b) within one
21 year of the effective date of his or her enrollment with the
22 Employees' Retirement System or within one year of August 1,
23 2004. The member may purchase his or her claimed credit in
24 increments of five years, unless the total service credit is
25 less than five years, in which case the service shall be
26 purchased in its entirety. The member shall provide
27 certification from each employing agency, on forms prescribed

1 by the Teachers' or Employees' Retirement System, of each year
2 of claimed service, as a prerequisite to payment under this
3 section.

4 ~~"(d) The provisions of this section shall not apply~~
5 ~~to any Tier II plan member."~~

6 Section 2. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise 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..... 08-FEB-22

8

9 Read for the second time and placed
10 on the calendar 1 amendment 16-FEB-22

11

12 Read for the third time and passed
13 as amended..... 02-MAR-22

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15

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17

18

Jeff Woodard
Clerk