SB166

3U3TEVE-1

By Senators Coleman-Madison, Waggoner, Roberts, Coleman, Smitherman, Shelnutt, Reed (N & P)

RFD: Jefferson County Legislation

First Read: 27-Feb-24

A BILL

TO BE ENTITLED

AN ACT

Relating to the General Retirement System for Employees of Jefferson County; to amend Sections 45-37-123.01, 45-37-123.20, 45-37-123.21, 45-37-123.22, 45-37-123.23, 45-37-123.24, 45-37-123.25, 45-37-123.26, 45-37-123.27, 45-37-123.28, 45-37-123.29, 45-37-123.50, 45-37-123.54, 45-37-123.80, 45-37-123.82, 45-37-123.83, 45-37-123.84, 45-37-123.100, 45-37-123.101, 45-37-123.102, 45-37-123.103, 45-37-123.104, 45-37-123.106, 45-37-123.108, 45-37-123.132, 45-37-123.150, 45-37-123.191, 45-37-123.194, and 45-37-123.195, Code of Alabama 1975; to clarify who is a designated beneficiary; to identify the Personnel Board of Jefferson County as the civil service system of Jefferson County; to define missing participants and missing beneficiaries as a participant or beneficiary whose whereabouts are unknown to the system or who is nonresponsive; to clarify categories of membership and benefits; to clarify that all members who are not vested are nonvested; to clarify that a member's benefit becomes partially vested and nonforfeitable upon 10 years of paid service and fully vested and nonforfeitable upon 15 years of paid service; to

accurately reflect the method by which the county remits employer and employee contributions to the system; to authorize the pension board to pay any sums reasonably necessary to defray administrative expenses of the plan before remitting employer and employee contributions to the trust fund; to establish additional qualifications and procedures for individuals elected or appointed to serve on the pension board; to provide for electronic forms and notice; to clarify that the election of pension board members number four and five are supervised by members volunteering to serve as the election board; to clarify that only a beneficiary designated by the member shall constitute a beneficiary under the plan; to authorize the pension board to adopt rules and regulations for the administration of any benefit provided by the plan subject to applicable law; to authorize the pension board to suspend and reinstate benefits to missing participants and missing beneficiaries; to provide the pension board with the authority to authorize the plan to defend and indemnify the pension board and each of its individual members, employees of the system, and the system as a legal entity separate and distinct from the plan from claims, actions, or judgments connected with or arising from decisions, acts, or omissions undertaken within the scope of its or their official capacity in furtherance of the purposes for which the system is established to the extent allowed by applicable law and Section 401(a), Internal Revenue Code; to authorize the pension board to interplead funds into a court of competent jurisdiction when the pension board cannot determine the owner

of those funds or for any other reason allowed under applicable law; to clarify that records and data of the system are not public records; to clarify that payment of benefits and administrative expenses from the trust fund is subject to the prohibition against diversion of funds for any purpose other than the exclusive benefit of members; to authorize the pension board to remit certain contributions to a system depository account to be treated as general assets of the system as a legal entity separate and distinct from the plan and its trust; to authorize the payment of benefits and expenses of administration from the general assets of the system as a legal entity separate and distinct from the plan and its trust; to clarify that three affirmative votes are required for the pension board to act; to provide that in the event a mandatory member subsequently occupies a position not subject to the Personnel Board of Jefferson County, the member shall remain a mandatory and contributing member of the system; to clarify that an employee eligible for optional membership must exercise the option in writing; to remove provisions prohibiting an active member from remaining a participant in the plan after the member elects to participate in another plan; to remove provisions related to the conversion of unpaid membership time to paid membership time; to remove certain provisions relating to the forfeiture of certain pension benefits and employee contributions; to clarify when a reemployed member begins to accrue benefits; to clarify that a member may terminate employee contributions upon reaching 30 years of paid service regardless of whether

the member has accumulated sufficient service to entitle the member to the maximum benefit available under the plan; to provide that the hourly equivalent of one-half month of work is sufficient to entitle a member to one month of service; to clarify that the payment of benefits does not commence until the member or the member's designated beneficiary executes all necessary forms required by the pension board; to provide that disability benefits are only authorized for permanent disabilities arising on or before separation from employment with the county; to clarify certain conditions for eligibility to receive a disability benefit; to clarify a disabled member's membership status upon reemployment by Jefferson County; to provide that procedures for proving a common law marriage are applicable only to a marriage entered into before January 1, 2017; to remove certain provisions terminating a member's right to a benefit; to remove certain provisions disqualifying a member from receiving benefits; to provide that vested pension benefits are nonforfeitable; to add Section 45-37-123.31 to the Code of Alabama 1975, to clarify the scope of immunity afforded to the system, the pension board, and the individual members of the pension board, and the employees of the system, when acting in its or their official capacity; to add Section 45-37-123.110 to the Code of Alabama 1975, to allow the pension board to adopt procedures for the forfeiture and restoration of benefits and employee contributions for missing participants and missing beneficiaries whose whereabouts are unknown to the system or who are nonresponsive; to provide that, during any period of

forfeiture, a missing participant or missing beneficiary shall not be treated as a member under the plan; to make technical corrections; to repeal Sections 45-37-123.52 and 45-37-123.53, providing for termination of eligibility and the conversion of unpaid membership time to paid membership time; and to provide for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 45-37-123.01, 45-37-123.20, 45-37-123.21, 45-37-123.22, 45-37-123.23, 45-37-123.24, 45-37-123.25, 45-37-123.26, 45-37-123.27, 45-37-123.28, 45-37-123.29, 45-37-123.50, 45-37-123.54, 45-37-123.80, 45-37-123.82, 45-37-123.83, 45-37-123.84, 45-37-123.100, 45-37-123.101, 45-37-123.102, 45-37-123.103, 45-37-123.104, 45-37-123.106, 45-37-123.108, 45-37-123.132, 45-37-123.150, 45-37-123.191, 45-37-123.194, and 45-37-123.195 of the Code of Alabama 1975, are amended to read as follows:

"§45-37-123.01

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

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

(2) ACTIVE MEMBER. An individual who currently is employed by the county or other entities set forth in subdivision (20) and is making employee contributions to the system pursuant to Section 45-37-123.82.

(3) ACTUARIAL EQUIVALENT. Effective July 30, 1984, or such other dates as set forth in Exhibit A to the plan

document, which is maintained in the office of the pension board, a form of benefit differing in time, period, or manner of payment from a specific benefit provided under the plan but having the same value when computed using the mortality tables, the interest rate, and any other assumptions last adopted by the pension board, which assumptions shall clearly preclude any discretion in the determination of the amount of a member's benefit.

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

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

(6) BASIC AVERAGE SALARY. Generally means, effective as of February 1, 2010, the monthly compensation of a member averaged over the period of 36 consecutive months of paid membership time during which such member's average monthly compensation was higher than any other period of 36 consecutive months of paid membership time. For example, if a member terminated employment on June 20, 2010, and his or her highest consecutive ~~36 month~~ 36-month period ends on the member's date of termination of employment, then the measuring period for determining basic average salary would be from June 21, 2007, through June 20, 2010. The following rules shall apply in calculating basic average salary:

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

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

c. Tacking of Nonconsecutive Paid Membership Time. Separate periods of paid membership time may be tacked and considered as consecutive if the member does not have any paid membership time between the periods so tacked. For example, if the member did not have any paid membership time between two periods of paid membership time due to a leave of absence, the leave of absence would be ignored in calculating basic average salary.

d. Post-termination. ~~Compensation. Compensation paid subsequent to termination of participation in the system pursuant to Section 45-37-123.52, due to ineligibility, shall not be recognized in computing basic average salary. However, notwithstanding~~ Notwithstanding any provisions of this plan to the contrary, a member's final paycheck from the county shall

be counted in computing a member's basic average salary, but only to the extent that such paycheck constitutes compensation, and the highest consecutive ~~36 month~~ 36-month period otherwise would end on the date of the member's termination of employment.

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

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

~~(9) CIVIL SERVICE SYSTEM. The personnel system administered and operated by the Jefferson County Personnel Board.~~

~~(10)~~ (9) COMMISSION. The Jefferson County Commission.

~~(11)~~ (10) COMPENSATION.

a. With respect to any member means:

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

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

3. Plus Worker's Compensation benefits, only as described in subdivision ~~(59)~~ (65); and

4. Any differential wage payment, as defined in §

3401(h)(2), Internal Revenue Code, generally relating to military pay.

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

c. Compliance with § 401(a)(17), Internal Revenue Code. Because the transitional rule provided by Treasury Regulation § 1.401(a)(17)-1(d)(4) of the regulations issued under § 401(a)(17), Internal Revenue Code, does not apply to the plan, compensation of each member taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed two hundred thousand dollars ($200,000), or such other amount provided in the Internal Revenue Code. Such amount shall be adjusted for increases in the ~~cost of living~~cost-of-living in accordance with § 401(a)(17)(B), Internal Revenue Code, except that the dollar increase in effect on January 1 of any calendar year shall be effective for the calendar years beginning with such calendar year. For any short calendar year, the compensation limit shall be an amount equal to the compensation limit for the calendar year in which the calendar year begins multiplied by the ratio obtained by dividing the number of full months in the short calendar year by 12. For purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior calendar year shall be limited to one hundred fifty thousand dollars ($150,000) for any calendar year beginning in 1996, one hundred sixty

thousand dollars ($160,000) for any calendar year beginning in 1997, 1998, or 1999; and one hundred seventy thousand dollars ($170,000) for any calendar year beginning in 2000 or 2001.

~~(12)~~ (11) COUNTY. Jefferson County, Alabama, and any successor which shall maintain this plan. However, references herein to employment by the county also shall include employment by such other entities set forth in subdivision (20) and by entities for which the county is acting as payroll agent or wherein the county is being reimbursed by an entity for the compensation of such entities' workers or wherein the entity has appointing authority with respect to the workers. Accordingly, such entities' workers shall be covered by the plan to the extent allowed under the act and as determined by the pension board in its administration of the plan.

~~(13)~~ (12) DEFERRED RETIREMENT BENEFIT. A benefit payable pursuant to the terms of Section 45-37-123.100(c).

~~(14)~~ (13) DESIGNATED BENEFICIARY. ~~As defined~~ The individual or entity designated as provided in Section 45-37-123.103(d) to receive a benefit payable under the plan upon or after the death of a member or a beneficiary, as applicable.

~~(15)~~ (14) DISABILITY ~~RETIREMENT~~ BENEFIT. A benefit payable pursuant to the terms of Section 45-37-123.102.

(15) DISABLED MEMBER. A member who is currently receiving a disability benefit from the system pursuant to Section 45-37-123.102.

(16) DISTRIBUTION CALENDAR YEAR. As defined in Section 45-37-123.106(f)(3).

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

(18) EFFECTIVE DATE. ~~January 1, 2010~~ May 23, 2013, except as otherwise provided.

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

(20) ELIGIBLE EMPLOYEE.

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

1. Any ~~person~~ individual employed by Jefferson County at a wage or salary payable at regular intervals, whether or not ~~such person~~ the individual is subject to the ~~civil service system in operation in~~ Personnel Board of Jefferson County.

2. Any ~~person~~ individual elected or appointed to a job or position with or for Jefferson County, whose compensation was paid or shall be paid, in whole or in part, by Jefferson County while occupying ~~such~~ the job or position.

3. Any ~~person~~ individual who occupies a county office in Jefferson County that is created by an act of the Legislature of the State of Alabama or is provided for by the Constitution of Alabama of ~~1901~~ 2022, and ~~such~~ the office requires full-time service. ~~Such person~~ The individual is an eligible county office employee.

~~4. Any person who is an officer or an employee of a hospital created by Jefferson County if such person's employment status with the hospital is such that if the person had the same employment status with Jefferson County, he or she would be an eligible employee. Such person is an eligible~~

~~hospital employee.~~

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

~~6.~~5. Any~~ person~~ individual employed by the Personnel Board of Jefferson County at a wage or salary payable at regular intervals, whether or not the~~ person~~ individual is subject to the~~ civil operation in~~ Personnel Board of Jefferson County.

~~7.~~6. Any~~ person~~ individual employed by an entity for which the county is acting as payroll agent or for which the county has agreed to be reimbursed by the entity for the compensation paid to the~~ person~~ individual, whether or not the ~~person~~ individual is subject to the~~ civil service system in operation in~~ Personnel Board of Jefferson County.

b. An eligible employee shall not include:

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

2. Any~~ person~~ individual whose employment is temporary so long as his or her employment remains temporary.~~ A person's~~ An individual's employment shall be deemed to be temporary within the meaning of this subdivision if~~ such~~ the employment

is temporary as defined by the ~~civil service system~~ Personnel Board of Jefferson County, or if the officers, board, commission, or agency employing ~~such person~~ the individual certifies in writing to the pension board that the employment is temporary.

3. Any leased employee and any independent contractor.

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

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

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

(24) EXECUTIVE DIRECTOR. The individual designated by the pension board to manage the employees and day-to-day administration of the system. The individual shall not be subject to the ~~civil service system~~ Personnel Board of

Jefferson County.

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

(26) 415 COMPENSATION. With respect to any member means such member's wages as defined in § 3401(a), Internal Revenue Code, and all other payments of compensation by the county, in the course of the county's trade or business, for a calendar year ending with or within the plan year for which the county is required to furnish the member a written statement under §§ 6041(d), 6051(a)(3), and 6052, Internal Revenue Code. 415 compensation shall be determined without regard to any rules under § 3401(a), Internal Revenue Code, that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in § 3401(a)(2), Internal Revenue Code. Notwithstanding the above, the determination of 415 compensation shall be made by including any elective deferral, as defined in § 402(g)(3), Internal Revenue Code, and any amount which is contributed by the county at the election of the member pursuant to a salary reduction agreement and which is not includible in the gross income of the member by reason of §§ 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), or 457(b), Internal Revenue Code, and employee contributions described in § 414(h)(2), Internal Revenue Code, that are treated as employer contributions. For this purpose, effective January 1, 1998, amounts not includible in gross income under § 125, Internal Revenue Code,

shall be deemed to include any amounts not available to a member in cash in lieu of group health coverage because the member is unable to certify that the member has other health coverage, provided the county does not request or collect information regarding the member's other health coverage as part of the enrollment process for the health plan.

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

1. The following amounts shall be included in 415 compensation to the extent these amounts are paid by the later of two months after severance from employment or by the end of the limitation year that includes the date of such severance from employment:

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

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

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

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

(iii) Deferred compensation. 415 compensation shall include deferred compensation if the compensation would have been included in the definition of 415 compensation if it had been paid prior to the member's severance from employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the member had continued in employment with the county and only to the extent that the payment is includible in the member's gross income.

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

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

(ii) Salary continuation payments for disabled participants. 415 compensation does not include compensation

paid to a member who is permanently and totally disabled, as defined in § 22(e)(3), Internal Revenue Code.

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

c. Back Pay. With respect to limitation years beginning on and after July 1, 2007, payments awarded by an administrative agency or court or pursuant to a bona fide agreement by the county to compensate a member for lost wages are 415 compensation for the limitation year to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in 415 compensation.

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

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

(29) ~~IRC~~ INTERNAL REVENUE CODE. The Internal Revenue Code of 1986, as amended or replaced from time to time.

(30) JOINT SURVIVOR. The designated beneficiary of a deceased member who shall become a member of the system upon the deceased member's death and who is eligible to receive

payment of a preretirement joint survivorship pension benefit pursuant to Section 45-37-123.103 or a postretirement joint survivorship pension benefit pursuant to Section 45-37-123.101.

~~(30)~~(31) JOINT SURVIVORSHIP PENSION. Either a preretirement joint survivorship pension or a postretirement joint survivorship pension.

~~(31)~~(32) LIFE EXPECTANCY. As defined in Section 45-37-123.106(f)(5).

~~(32)~~(33) MEDICAL ADVISOR. The pension board's medical advisors or other appointed physicians or vocational specialists.

~~(33)~~(34) MEMBER. Any eligible employee who, depending on the context as used throughout this plan, participates, or participated, in the plan as either an active member, a retired member, a disabled member, or the joint survivor of a deceased member who is receiving payment of a preretirement joint survivorship pension benefit pursuant to Section 45-37-123.103 or a postretirement joint survivorship pension benefit pursuant to Section 45-37-123.101.

(35) MISSING BENEFICIARY. The designated beneficiary of a member whose whereabouts are unknown to the system or who is nonresponsive, or both.

(36) MISSING PARTICIPANT. A member of the system who has separated from employment with the county without refund of his or her employee contributions and whose whereabouts are unknown to the system or who is nonresponsive, or both.

~~(34)~~(37) NONSERVICE CONNECTED DISABILITY. A total

disability or partial disability while the member is employed by the county that is not a service connected disability.

~~(38) NONVESTED. All members who are not vested~~.

~~(35)~~ (39) PAID MEMBERSHIP TIME. The time during which a member made, or shall have made, employee contributions to the system and other previous retirement systems, provided, however, that if a member, for any reason, including termination of employment, withdraws his or her employee contributions, the period during which the employee contributions are withdrawn shall be considered unpaid membership time, unless it ~~is~~ was previously converted to paid membership time ~~as provided for in Section 45-37-123.53~~. Paid membership time also shall include a member's absence due to qualified military service. Years of paid membership time shall be calculated in accordance with Section 45-37-123.84.

~~(36)~~ (40) PARTIAL DISABILITY. A permanent disability that is less than a total disability determined in accordance with Section ~~45-37-123.102(c)~~ 45-37-123.102(a)(3).

~~(37)~~ (41) PENSION BOARD. The administrator of the plan, ~~as~~ whose powers and duties of administration are more fully described in Subpart 2.

(42) PENSION BENEFIT. A superannuation retirement benefit, early retirement benefit, or deferred retirement benefit payable pursuant to Section 45-37-123.100 or a preretirement or postretirement joint survivorship pension payable pursuant to Section 45-37-123.103 or Section 45-37-123.101.

(43) PERSONNEL BOARD OF JEFFERSON COUNTY. The personnel

system for employees of the county.

~~(38)~~(44) PLAN or SYSTEM. The General Retirement System for Employees of Jefferson County, which plan or system may sue or be sued, and in such name all of its business shall be transacted.

~~(39)~~(45) PLAN YEAR. The plan's accounting year of 12 months commencing on January 1 of each year and ending the following December 31.

~~(40)~~(46) POSTRETIREMENT JOINT SURVIVORSHIP PENSION. The benefit described in Section 45-37-123.101.

~~(41)~~(47) PRERETIREMENT JOINT SURVIVORSHIP PENSION. The benefit described in Section 45-37-123.103.

~~(42)~~(48) PREVIOUS RETIREMENT SYSTEMS. The retirement systems established by Acts 1953, No. 551, 1953 Regular Session (Acts 1953, p. 766), as amended, the Employees' Retirement System of Jefferson County, and by Acts 1961, No. 843, 1961 Regular Session (Acts 1961, p. 1250), as amended, the Employees General Retirement System of Jefferson County.

~~(43)~~(49) QUALIFIED MILITARY SERVICE. Except as otherwise subsequently provided under § 414(u), Internal Revenue Code, the performance of duty, on a voluntary or involuntary basis, in a uniformed service under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty, a period for which ~~a person~~ an individual is absent from a position of employment for the purpose of an examination to determine the fitness of the ~~person~~ individual to perform any ~~such~~ duty, and a period for

which ~~a person~~ an individual is absent from employment for the purpose of performing funeral honors duty.

~~(44)~~(50) REGULAR DEFERRED RETIREMENT BENEFIT. A benefit payable pursuant to the terms of Section 45-37-123.100(c)(2).

~~(45)~~(51) REGULATION. The income tax regulations as ~~promulgated~~ adopted by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, as amended from time to time.

~~(46)~~(52) REQUIRED BEGINNING DATE. As defined in Section 45-37-123.106(f)(6).

~~(47)~~(53) RETIRED MEMBER. An individual who currently is receiving a pension ~~benefits~~ benefit from the system pursuant to Section 45-37-123.100.

~~(48)~~(54) SERVICE CONNECTED DISABILITY. A total disability or partial disability, caused by an accident or injury arising out of and in the course of a member's employment with the county.

~~(49)~~(55) SERVICE RECORD. An employee's record of service upon which the pension board bases all of the member's benefit calculations, including records of the county.

~~(50)~~(56) SICK LEAVE RETIREMENT CONVERSION. A program sponsored by the county or other entities set forth in subdivision (20) wherein a member is paid for accumulated sick leave time.

~~(51)~~(57) SUPERANNUATION RETIREMENT BENEFIT. A benefit payable pursuant to ~~the terms of subsection (a) of~~ Section ~~45-37-123.100~~ 45-37-123.100(a).

~~(52)~~(58) SYSTEM or PLAN. The General Retirement System

for Employees of Jefferson County, which system or plan may sue or be sued, and in such name all of its business shall be transacted.

~~(53)~~ (59) SPOUSE. The legal wife or husband of a member as determined in accordance with federal law.

~~(54)~~ (60) TOTAL DISABILITY. A permanent physical or mental condition of a member resulting from bodily injury, disease, or mental disorder which renders such member incapable of continuing usual and customary employment with the county. The disability of a member shall be determined by a licensed medical advisor.

~~(55)~~ (61) TRUSTEE. The pension board or the ~~person~~ individual or entity appointed by the pension board and named as trustee herein or in any separate trust forming a part of the plan, and any successors.

~~(56)~~ (62) TRUST FUND. The tax-qualified trust in which certain plan funds are held, disbursed, transferred, and invested by the trustee at the pension board's, or its designated investment manager's, discretion and in accordance with this part, the Internal Revenue Code, and other applicable laws and regulations.

~~(57)~~ (63) UNPAID MEMBERSHIP TIME.

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

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

2. Time during which a member withdrew employee

contributions for any reason, including upon a termination of employment, unless this period of time ~~is~~ was later converted to paid membership time ~~as provided for in Section 45-37-123.53~~.

3. Time during which ~~a person~~ an individual held an elective office or was employed in a full-time job or position in the service of any municipality, governmental agency, or subdivision or held an elective office, provided that at the time the ~~person~~ individual served with ~~such~~ the municipality, governmental agency, or subdivision, it was subject to the ~~countywide civil service law~~ Personnel Board of Jefferson County.

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

1. Service with a municipality, governmental agency, or subdivision if the employee received a pension from such municipality, governmental agency, or subdivision, on account of such service or if such service was considered in the calculation of the pension.

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

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

c. If such prior service with a municipality, governmental agency, or subdivision was not an elective office or in a classified position, such prior service shall not be treated as unpaid membership time unless such employee establishes to the satisfaction of the pension board that such

service was a full-time job.

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

~~(58)~~ (64) VESTED. The portion of a member's benefits under the plan that ~~generally are~~ have accrued pursuant to Section 45-37-123.100(c)(2)b. and are therefore nonforfeitable. ~~Subject to Section 45-37-123.83, relating to failure to claim a refund of employee contributions within the five-year period, a~~ A member's benefit shall become ~~nonforfeitable, or~~ vested~~,~~ and nonforfeitable upon any of the following events:

a. The member's accrual of at least 10 years of paid service;

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

~~b.~~c. Meeting the eligibility conditions for entitlement to a benefit under Subpart 5.

~~(59)~~ (65) WORKER'S COMPENSATION BENEFITS. Any benefit paid to a member under any worker's compensation law of the State of Alabama for any injury or disability suffered by such

member while working for the county on the job or position by reason of which he or she is a member. Additionally, worker's compensation benefits are included in compensation for purposes of determining employee contributions pursuant to Section 45-37-123.82. Worker's compensation benefits are included in compensation for purposes of calculating a ~~retirement~~ pension benefit only if inclusion of such worker's compensation benefits produces a higher benefit than exclusion of such worker's compensation benefits."

"§45-37-123.20

(a) Provisions of records. The county shall provide all records and documents necessary to determine an employee's status and eligibility for membership in the plan, upon which a service record shall be created.

(b) Contributions. The county shall contribute an amount equal to six percent of an employee's compensation from the county's general assets to the ~~trust fund~~ system, as provided in Section 45-37-123.80. The county also shall withhold six percent of an employee's compensation each pay period as provided in Section 45-37-123.82. ~~The county also shall contribute any amounts received pursuant to Section 45-37-233, attributable to pistol permits.~~ Additionally, the county may pay into the ~~trust fund~~ system from the general funds of the county, in such installments or times as the county may elect, an amount or amounts sufficient to assure that the system is actuarially sound. The system shall remit contributions to the trust fund as soon as practicable. The pension board may first pay any sums reasonably necessary to

defray administrative expenses of the plan as determined by the pension board subject to Section 45-37-123.194. The county shall also contribute any amounts received pursuant to Section 45-37-233, attributable to pistol permits, to the system, which shall not be considered plan assets. Any funds contributed pursuant to Section 45-37-233 shall be remitted to a system depository account and treated as general assets of the system as a legal entity separate and distinct from the plan and its trust."

"§45-37-123.21

(a) General administration. The role of the pension board is established by the State of Alabama through legislative act. The pension board is responsible for the general administration and proper operation of the plan. The pension board also is responsible for making effective the provisions of the act.

(b) Qualifications of pension board members. In addition to the qualifications set forth in subsection (c), any individual elected or appointed to the pension board shall complete a background check before the commencement of his or her term. A prior conviction for a crime of moral turpitude including, but not limited to, the misappropriation of the funds or property of another, shall, as determined by the pension board, disqualify any individual elected or appointed to the pension board from serving on the pension board.

~~(b)~~ (c) Composition of pension board. The pension board is comprised of five members, designated respectively as member number one, member number two, member number three,

member number four, and member number five.

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

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

(3) MEMBER NUMBER THREE. Member number three shall be appointed by the ~~Jefferson County~~ Personnel Board of Jefferson County. Member number three shall have a minimum of 10 years' experience as a certified public accountant. The initial term of member number three shall expire at the end of three years; and the term of member number three shall be for three years.

(4) MEMBERS NUMBER FOUR AND FIVE. Member number four and member number five shall be elected by the members of the system. Member number four shall be a retired member of the system. Member number five shall be a member of the system. The initial term of member number four shall be for one year; and thereafter the term of member number four shall be for

three years. Member number five shall be elected for terms of three years.

~~(c)~~ (d) Procedure for the election of board members four and five and selection of the election board.

(1) Elections of member number four and member number five shall be conducted by separate paper or electronic ballot pursuant to procedures established by the pension board.

(2) The members of the system shall elect member number four and member number five. The pension board shall give at least 15 days' written notice of the time and procedure of the election by posting the same ~~in at least three prominent places in the county courthouse~~ on the retirement system website and by delivering ~~three copies of the same~~ an electronic or paper copy of the written notice to the county manager who shall inform all ~~persons~~ individuals on the county payroll of the election; however, the failure to inform all ~~such~~ employees of the election shall not invalidate the election.

(3) The elections of member number four and member number five shall be supervised by three members of the system ~~serving~~ volunteering to serve as the election board. The members that volunteer to serve as the election board shall be appointed by the members of the system at the annual meeting as provided for in Section 45-37-123.22(b)(14). If the members of the system fail to appoint members to the election board, or if any member so appointed cannot or will not volunteer to serve on the election board, the pension board shall appoint the members of the election board. The pension board may

prescribe additional rules for the elections of member number four and member number five not inconsistent with the provisions hereof.

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

~~(e)~~ (f) Resignation or removal of pension board member. A member of the pension board may resign by delivering a written resignation to the executive director or be removed by the unanimous vote of the other members of the pension board at a duly called meeting of the pension board.

~~(f)~~ (g) Secretary. The secretary of the pension board shall be the executive director.

~~(g)~~ (h) Salary and expenses. ~~The~~ Subject to Section 45-37-123.194, the members of the pension board shall serve without pay, but shall be reimbursed for expenses actually paid or incurred in the discharge of their official duties, and shall suffer no loss of salary or wages, if employed by the county, through service on the board."

"§45-37-123.22

(a) The pension board shall be responsible for the general administration and proper operation of the plan, and shall administer the plan for the exclusive benefit of the members and their designated beneficiaries, subject to the specific terms of the plan. The pension board shall administer the plan in accordance with its terms and shall have the power and discretion to construe the terms of the plan and the act and to determine all questions arising in connection with the

administration, interpretation, and application of the plan. Any ~~such~~ determination by the pension board shall be conclusive and binding upon all ~~persons~~ individuals. The pension board may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the plan; provided, however, that any procedure, discretionary act, interpretation, or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the plan shall continue to be deemed a qualified plan under the terms of § 401(a), Internal Revenue Code, and shall comply with the terms of the act and all regulations issued pursuant thereto. The pension board shall have all powers necessary or appropriate to accomplish the pension board's duties under the plan.

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

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

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

(3) To maintain all necessary records for the administration of the plan.

(4) To interpret the provisions of the plan and to make ~~and publish~~ such rules for regulation of the plan and the administration of any benefit provided as are consistent with the act and ~~the terms hereof~~ applicable law.

(5) To establish rules and regulations for the administration of plan funds and for the transaction of the plan's business including, without limitation, the suspension or reinstatement of benefits to missing participants or missing beneficiaries.

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

(7) To prepare and provide active members with an annual estimated benefit statement notifying them of their estimated benefits.

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

(9) To determine the validity of, and take appropriate action with respect to, any divorce decree, or other judicial order presented to the pension board.

(10) To assist any member regarding the member's rights, benefits, or elections available under the plan.

(11) To, by written agreement or designation, appoint at its option an investment manager, qualified under the Investment Company Act of 1940, as amended, investment

adviser, or other agent to provide direction regarding any or all of the plan assets. Such appointment shall specifically identify the plan assets with respect to which the investment manager or other agent shall have authority to direct the investment.

(12) To establish an investment policy.

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

(14) To hold an annual meeting of the members at least once per calendar year and provide at least seven days' written notice of the meeting to all members on the retirement system website or at either their place of work, last known address, or by electronic mail.

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

(16) To develop rules and regulations, amend the plan, subject to the provisions of Section 45-37-123.150, and provide for increases in benefits, subject to the provisions of Section 45-37-123.151.

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

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

(19) To provide employees of the system with health, dental, vision, and other forms of insurance, paid vacation,

sick leave, tuition reimbursement, and any other benefits as determined by the pension board.

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

(21) To conduct meetings and business in person or by video conference, telephone conference, or electronic communication.

(22) To participate in emergency relief programs of the United States, the State of Alabama, and their departments, agencies, and instrumentalities.

(23) To recover costs and reasonable attorney's fees in actions in which the pension board seeks to recover funds of the ~~retirement~~ system erroneously paid to members, beneficiaries, and third parties.

(24) To authorize the plan to defend and indemnify the pension board and each of its individual members, employees of the system, and the system as a legal entity separate and distinct from the plan from any claim, action, or judgment connected with or arising from any decision, act, or omission undertaken within the scope of its or their official capacity in furtherance of the purposes for which the system is established to the extent allowed by applicable law and § 401(a), Internal Revenue Code.

(25) To interplead funds into a court of competent jurisdiction when the pension board cannot determine the owner of said funds or for any other reason allowed under applicable law.

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

"§45-37-123.23

(a) Records. The pension board shall keep minutes of its meetings. Additionally, the pension board shall keep all other books of account, records, policies, compensation records, service records, and other data that may be necessary for proper administration of the plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, members, designated beneficiaries, and others as may be required by law. Records, as provided in this subsection, are not public records.

(b) Correction of records.

(1) The pension board shall correct any error in a member's service record which the pension board concludes is necessary to correct or remove an injustice or prevent a member from receiving less or more than such member is entitled to receive under the plan. The pension board shall adopt written rules prescribing the procedure the pension board shall follow in considering whether an error in an employee's service record should be corrected. Correction of service records shall be subject to the following limitations:

a. No error in the service record shall be corrected except by the pension board.

b. The pension board shall not correct any error in an employee's service record until it has accorded, or offered to accord, the employee a hearing regarding the proposed

correction, which hearing shall not be conducted until after the employee has received at least two weeks' notice of the nature of the proposed correction and of the time and place at which the proposed correction shall be considered.

c. No correction of an error shall be made at an employee's request unless the employee files with the pension board his or her written request for such correction before the date that is one year subsequent to the employee's discovery of the error requested to be corrected; provided, however, the pension board may excuse an employee's failure to file such application for correction within one year following his or her discovery of such error if the pension board finds that excusing such failure would be most equitable.

(2) If the pension board determines that any amount has been erroneously deducted from the compensation of an employee and paid ~~into~~ to the ~~trust fund~~ system as an employee contribution, or that any amount has been otherwise paid ~~into~~ to the ~~trust fund~~ system erroneously on behalf of any employee, such amount shall be refunded to the employee, and any amount which may have been paid erroneously to match such erroneous contribution shall be refunded. The pension board is authorized to determine whether interest shall be payable on any amounts returned and to determine the amount of interest to be paid, if any; provided, however, that no interest shall be paid to any employee responsible for the error resulting in the erroneous payment.

(c) Audit. The pension board shall cause an audit to be made of its affairs by a certified public accountant at least

once each calendar year."

"§45-37-123.24

The pension board may allocate responsibilities among the members of the pension board ~~and/or~~ or may delegate responsibilities to third parties, or both. The pension board may employ, appoint, or contract with additional employees, administrators, managers, counsel, specialists, advisers, agents, including nonfiduciary agents, and other ~~persons~~ individuals as the pension board or the trustee deems necessary or desirable in connection with the administration of the plan~~,~~ including, but not limited to, agents and advisers to assist with the administration and management of the plan, and thereby to provide, among such other duties as the pension board may appoint, assistance with maintaining plan records and the providing of investment information to the plan's investment fiduciaries, and none of ~~such persons~~ those individuals shall be subject to the ~~civil service system~~ Personnel Board of Jefferson County."

"§45-37-123.25

The county, the ~~Jefferson County~~ Personnel Board of Jefferson County, or the county's agent, as applicable, shall supply full and timely information~~,~~ including, but not limited to, all payroll, service records, and personal history of members, to the pension board as the pension board may require in order to perform its duties hereunder. The pension board may rely upon such information as accurate and shall have no duty or responsibility to verify such information."

"§45-37-123.26

~~All~~Subject to Section 45-37-123.194, all payment of benefits, expenses of administration, and any other expenses arising hereunder, may be paid by the pension board out of the trust fund, unless otherwise paid by the county or from the general assets of the system as a legal entity separate and distinct from the plan and its trust. Such expenses shall include any expenses incident to the functioning of the pension board, or any ~~person or persons~~ individual retained or appointed by any fiduciary incident to the exercise of their duties under the plan~~,~~ including, but not limited to, fees of accountants, counsel, investment managers, and other specialists and their agents, and other costs of administering the plan. Until paid, the expenses shall constitute a liability of the system."

"§45-37-123.27

Three members of the pension board shall constitute a quorum for the transaction of all business. Except where there has been an allocation and delegation of administrative authority pursuant to Section 45-37-123.24, three affirmative votes shall be necessary for a decision by the pension board."

"§45-37-123.28

(a) Claims for benefits under the plan shall be filed in writing with the executive director on forms which may include, but are not limited to, electronic forms provided by the pension board and filed in accordance with procedures established by the pension board or the executive director, or both. The procedure and documents to be produced by a member or designated beneficiary may differ depending on the type of

benefit claim being made.

(b) The pension board may allow a properly designated power of attorney to act on behalf of a member or designated beneficiary so long as the act is authorized under the terms of the power of attorney documentation."

"§45-37-123.29

Any employee, former employee, or designated beneficiary of either, who has been denied a benefit by a decision of the pension board pursuant to a claim made under Section 45-37-123.28 shall be entitled to request the pension board to give further consideration to a claim by filing with the pension board a written request for a hearing. Such request shall be filed with the pension board no later than 60 days after receipt of the written notification of denial. The pension board shall then conduct a hearing as soon as administratively feasible. The hearing shall typically be held at the pension board's regular meeting. A final decision as to the claim shall be made by the pension board as soon as administratively feasible after receipt of the appeal and the claimant shall be notified in writing of the decision. In the event of a denial of a disability ~~retirement~~ benefit claim, a new disability ~~retirement~~ benefit claim may not be made for at least six months from the date of the last appeal denial, unless otherwise determined in the discretion of the pension board or the executive director."

"§45-37-123.50

Any eligible employee may become a member of the system as described below. Notwithstanding the following, any ~~person~~

individual who was a member of the system prior to the effective date of the amendment and restatement of the plan shall continue to be a member of the system.

(1) MANDATORY MEMBERSHIP.

~~a. Eligible Employees Subject to the Civil Service System.~~ Except as otherwise provided in subdivision (2), every eligible employee who occupies a full-time position subject to the ~~civil service system applicable to~~ Personnel Board of Jefferson County shall become a member of the system and shall make employee contributions to the system in accordance with Section 45-37-123.82. If an employee subsequently occupies a position not subject to the Personnel Board of Jefferson County, the employee shall remain a mandatory and contributing member of the system, except as otherwise provided herein.

~~b. Hospital Employees. Every eligible hospital employee, as defined in subdivision (21) of Section 45-37-123.01, shall become a member of the system and shall make employee contributions to the system in accordance with Section 45-37-123.82 if his or her relation to the hospital corporation is such that if he or she had the same relation to Jefferson County as he or she has to the hospital corporation, his or her membership in the system would be mandatory.~~

(2) OPTIONAL MEMBERSHIP. The following eligible employees may exercise the option to become a member of the system by filing with the ~~secretary of the pension board~~ executive director an executed declaration stating that he or she elects to become a member of the system, subject to all of the rights and liabilities of members of the system. The

declaration shall be in such form and time as the pension board may prescribe. Once the declaration is accepted by the pension board or a representative of the pension board, such eligible employee then shall become a member of the system and shall begin to make employee contributions to the system in accordance with Section 45-37-123.82. The election to become or not become a member, once exercised, shall be irrevocable.

a. Eligible Employees Not Subject to the ~~Civil Service System~~ Personnel Board of Jefferson County. Any eligible employee who occupies a ~~full-~~ full-time or part-time position not subject to the ~~civil service system applicable to~~ Personnel Board of Jefferson County shall not become a member of the system unless he or she exercises the written option to become a member.

~~b. Hospital Employees. Any eligible hospital employee, as defined in subdivision (21) of Section 45-37-123.01, shall have the option of becoming a member of the system if such eligible hospital employee's relation to the hospital corporation is such that if he or she had the same relation to Jefferson County as he or she has to the hospital corporation, he or she would have the option of becoming a member of the system.~~

~~c.~~b. Eligible County Office Employees~~, Eligible Circuit Solicitors, Eligible Deputy Solicitors,~~ and Eligible Part-Time Employees. Notwithstanding the mandatory membership provisions in subdivision (1), any eligible county office employee, ~~any eligible circuit solicitor, any eligible deputy solicitor,~~ as ~~each is~~ defined in Section 45-37-123.01, and any part-time

employee who occupies a position subject to the ~~civil service system applicable to~~ Personnel Board of Jefferson County shall not become a member of the system unless he or she exercises the written option to become a member."

"§45-37-123.54

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

(1) RETIRED MEMBER RECEIVING A PENSION BENEFIT. If a member receiving his or her pension benefit is reemployed by the county two or more years after severing employment, the pension benefit of the member shall not be reduced. If a member is receiving his or her pension benefit and is reemployed by the county less than two years after severing employment, any amount otherwise payable by the system to the member on account of the member's retirement shall be reduced by the amount, if any, paid or payable to the member by the county on account of or by reason of the reemployment of the member. At the earlier of the time the member thereafter severs employment with the county or after two or more years ~~of reemployment by the county~~ after the date on which the member retired, ~~such~~ the member's pension benefit shall return to the amount it was prior to the member's reemployment. However, notwithstanding subdivisions (3) and (4), such a member covered by this subdivision shall not make any

additional employee contributions or accrue any additional pension benefit during his or her period of reemployment.

(2) MEMBER ELECTED A DEFERRED RETIREMENT. If a vested member who severed employment with the county and elected a deferred retirement benefit is reemployed by the county before age 60, his or her election for a deferred retirement benefit shall be rescinded, and he or she shall resume making employee contributions and begin to accrue benefits again upon the date of reemployment if the member's position is subject to mandatory membership pursuant to Section 45-37-123.50(1). Such member's benefit, if any, shall be calculated by aggregating the member's credited service during all periods of ~~employment~~ membership in the system. Alternatively, if the member's position is subject to optional membership pursuant to Section 45-37-123.50(2), the member shall resume employee contributions and begin to accrue benefits again only if he or she has exercised the option to become a member in accordance with Section 45-37-123.50(2).

(3) DISABLED MEMBER RECEIVING A DISABILITY BENEFIT. If a disabled member receiving a disability benefit is reemployed by the county, his or her disability benefit shall terminate effective upon the date of reemployment.

~~(3)~~ (4) MEMBER DOES NOT RECEIVE A REFUND AND IS REEMPLOYED WITHIN FIVE YEARS. Except as set forth in subdivision (1), if a member, who severed employment with the county but did not receive a refund of his or her employee contributions to the system as provided in Section 45-37-123.104, is reemployed by the county within five years

of such severance from employment, he or she shall resume making employee contributions and begin to accrue benefits again upon the date of reemployment. The member's benefit shall be calculated by aggregating the member's credited service during all periods of employment.

~~(4)~~ (5) MEMBER RECEIVED A REFUND ~~OR FORFEITED PENSION BENEFIT~~. Except as set forth in subdivision (1), if a member who severed employment with the county and received a refund of his or her employee contributions to the system as provided in Section 45-37-123.104~~, or does not receive a refund within five years after severing from employment~~, is reemployed by the county, he or she shall rejoin the system in accordance with Sections 45-37-123.50 and 45-37-123.82 and begin to accrue benefits again upon the date of reemployment. In calculating the member's benefit, only credited service rendered after the member is reemployed shall be included."

"§45-37-123.80

(a) Employer contributions. Each payroll period, an amount equal to the total of all members' employee contributions that is deducted from the members' compensation pursuant to Section 45-37-123.82 shall be contributed by the county and shall be paid ~~into~~ to the ~~trust fund~~ system. The system shall remit the contributions to the trust fund as soon as practicable, however the pension board may first pay any sums reasonably necessary to defray administrative expenses of the plan as determined in the sole discretion of the pension board subject to Section 45-37-123.194.

(b) Employer contributions upon reinstatement from

qualified military service. If any member leaves the service of the county for the purposes of performing qualified military service and shall have been reinstated to the service of the county within 90 days after such member's separation from such qualified military service, then the county shall promptly pay ~~into~~ to the ~~trust fund~~ system an amount equal to twice the employee contribution which the employee would have made if he or she had not been absent on such leave, and if his or her compensation had continued to be the same as he or she was earning at the time of the commencement of the leave; provided, however, that no part of such payment by the county shall be refundable to the employee pursuant to Section 45-37-123.104."

"§45-37-123.82

(a) Employee contributions generally. As a condition of employment and of accruing benefits under the plan, each member shall contribute six percent of such member's compensation to the plan. The employee contributions shall be after tax, or if approved by the pension board such employee contributions shall be pre-tax and treated as "picked-up" and contributed by the county to the plan pursuant to ~~Section~~ § 414(h)(2) of the Internal Revenue Code. The county shall process such employee contributions each payroll period and the aggregate amount shall be deposited in the ~~trust fund~~ system. Employee contributions shall begin on the member's first paycheck after a member becomes eligible for membership in the system as provided for in Section 45-37-123.50. In the event that the county fails to withhold any employee

contributions, the county may withhold such amounts, whether treated by the county as after-tax contributions or treated as "picked-up" contributions, from future paychecks as are necessary to restore the amounts not withheld.

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

(c) Cessation of employee contributions. A member may terminate employee contributions ~~when the member's service entitles him or her to receive the maximum benefit available~~ after 30 years of paid service, as further provided in Section 45-37-123.104(3)."

"§45-37-123.83

The pension board and county are authorized to contribute to the system or trust fund any monies received in the form of donations, gifts, appropriations, bequests, or otherwise, or derived therefrom. ~~Additionally, any member or beneficiary who fails to make timely application for the amount of his or her employee contributions pursuant to Section 45-37-123.104 shall be deemed to have forfeited and donated employee contributions to the trust fund. In no event shall any forfeitures under the plan result in an increase in the benefit to be paid to any member. The executive director shall provide one certified letter to the member within 60 days following the member's termination of employment advising the member of the foregoing forfeiture provisions. See also Section 45-37-123.194 for additional forfeiture provisions.~~"

"§45-37-123.84

Except as otherwise specifically stated herein, the rules below shall apply in determining length of service for all purposes under the plan.

(1) In no case may more than one year of service be credited for service in one calendar year.

(2) A member shall work over one-half of a month, including all calendar days or the hourly equivalent thereof, in order to earn one month of service.

(3) Except as otherwise specifically stated herein or required by federal law, a member shall not be allowed service credit for any period of more than one-half of a month during which such member is absent without pay.

(4) A member shall receive service credit for any and all paid leaves of absence, including a paid Family and Medical Leave Act leave, regardless of the length of the leave and regardless of the performance of any services. For ~~member's~~ members terminating employment between August 1, 1993, and January 31, 2010, up to three months of service credit was granted to members on unpaid Family and Medical Leave Act leaves.

(5) Years of paid membership time are used in computing benefits under the plan, as are months of paid membership time. Months shall be converted into a fraction of a year as follows:

1 month	.0833
2 months	.1667
3 months	.2500

4 months .3333

5 months .4167

6 months .5000

7 months .5833

8 months .6667

9 months .7500

10 months .8333

11 months .9167

12 months 1.0000

(6) The pension board may disregard a fractional part of a year in computing paid membership time or unpaid membership time that is less than one-twelfth of a year.

(7) Notwithstanding any provision of the plan to the contrary, effective December 12, 1994, contributions, benefits, and service shall be provided in accordance with § 414(u), Internal Revenue Code, relating to military leave.

(8) Service before and after reemployment by the county shall also be calculated in accordance with Section 45-37-123.54."

"§45-37-123.100

(a) Superannuation retirement benefit.

(1) ELIGIBILITY. A member shall be eligible for a superannuation retirement benefit if the member is not receiving a disability benefit and:

a. The member has 30 or more years of paid membership

time, regardless of age;

b. The member has 10 or more years of paid membership time and has attained the age of 60; or

c. The member has 30 years of service, 20 years of which are paid membership time, and has attained the age of 55.

(2) CALCULATION OF BENEFIT. If a member meets the foregoing eligibility criteria, then the member shall be eligible to retire and receive a monthly benefit for the remainder of his or her life to be determined by the following formula:

a. Two and one-half percent multiplied by the basic average salary multiplied by the number of years of paid membership time; plus

b. Five-eighths of one percent multiplied by the basic average salary multiplied by the number of years of unpaid membership time, if applicable.

(3) SEVENTY-FIVE PERCENT LIMITATION. Notwithstanding the foregoing, no member shall receive any ~~retirement~~ pension benefit in excess of 75 percent of his or her basic average salary. This 75 percent limitation shall only be applied at the time that the beginning ~~retirement~~ pension benefit is determined and shall not limit increases granted to retired members subsequent to their retirement. Additionally, this 75 percent limitation shall be applied before applying any actuarial adjustments to reflect an election of a joint survivorship pension.

(4) SECTION 401(a)(17), INTERNAL REVENUE CODE,

LIMITATION. Notwithstanding the foregoing provisions of this subsection, after applying the § 401(a)(17), Internal Revenue Code, compensation limit set forth in ~~subdivision (11) of~~ Section ~~45-37-123.01~~ 45-37-123.01(10), the pension board, with the assistance of an actuary, shall determine the adjustments to any or all of the components or factors of the benefit formula, other than paid membership time, unpaid membership time, and/or the basic average salary as limited by the compensation limit that would be necessary to yield the maximum benefit specified under this part, without regard to § 401(a)(17), Internal Revenue Code; the pension board shall then use such adjusted benefit formula to determine the maximum benefit due from the plan, subject, however, to Subpart 6~~,~~ and Internal Revenue Code~~,~~ Section 415 limitations.

(5) ELIGIBILITY FOR POSTRETIREMENT JOINT SURVIVORSHIP PENSION. A member that is entitled to a superannuation retirement benefit shall be entitled to instead elect a postretirement joint survivorship pension, as provided for under Section 45-37-123.101.

(6) DEATH. If a member dies while receiving payment of a superannuation retirement benefit, the return of any remaining portion of his or her employee contributions shall be governed by Section ~~45-37-123.104(5)d~~ 45-37-123.104(4)d. If the member has received payments in an amount at least equal to the amount of employee contributions he or she made to the plan at the time of death, then no further payments shall be made upon the member's death.

(b) Early retirement benefits.

(1) REGULAR EARLY RETIREMENT. A member may elect, but is not required, to retire prior to age 60 if the member has completed 30 or more years of service, 10 of which, but not the total 30, are paid membership time. In the event that a member makes such an election, such member shall be entitled to receive an early retirement benefit equal to the member's benefit that would be payable pursuant to subsection (a), but with an actuarial equivalent reduction for each year less than 60 years of age, as follows:

Age of Member on Last Birthday Preceding Retirement	Reduced Retirement Benefit on Account of Retirement before Age 60 Expressed as a Percentage of the Superannuation Retirement Benefit under subsection (a)
59	93%
58	87%
57	82%
56	77%
55	72%
54	68%
53	64%
52	60%
51	57%
50	54%
49	51%

48	48%

(2) TWENTY-FIVE YEAR EARLY RETIREMENT BENEFIT. On and after April 24, 2003, a member with at least 25 years of paid membership time, but less than 30 years of paid membership time, who is not eligible for a superannuation retirement benefit may elect to retire early, but is not required to do so. In the event that a member makes such an election, such member shall be entitled to receive a 25-year early retirement benefit equal to the member's benefit that would be payable under superannuation retirement benefit pursuant to subsection (a), but with an actuarial equivalent reduction of seven percent for each whole year less than 30 years. For purposes of the seven percent reduction, months are not counted.

(3) ELIGIBILITY FOR POSTRETIREMENT JOINT SURVIVORSHIP PENSION. A member that is entitled to an early retirement benefit shall be entitled to instead elect a postretirement joint survivorship pension, as provided for under Section 45-37-123.101.

(4) DEATH. If a member dies while receiving payment of an early retirement benefit, the return of any remaining portion of his or her employee contributions shall be governed by Section ~~45-37-123.104(5)d~~ 45-37-123.104(4)d. If the member has received payments in an amount at least equal to the amount of employee contributions he or she made to the plan at the time of death, then no further payments shall be made upon the member's death.

(c) Deferred retirement benefits.

(1) GENERAL RULES FOR DEFERRED RETIREMENT BENEFITS.

a. Ineligibility for Deferred Retirement Benefit if Eligible for Superannuation Retirement Benefit. If a member is eligible for a superannuation retirement benefit, then he or she is not eligible for a deferred retirement benefit.

b. Withdrawal of Employee Contributions. A member who has elected a deferred retirement benefit may at any time before payment of such benefit commences withdraw in full his or her employee contributions, without interest. However, no deferred retirement benefit shall be paid to a member who withdraws such employee contributions.

c. Eligibility for Postretirement Joint Survivorship Pension. A member that is entitled to a deferred retirement benefit shall be entitled to instead elect a postretirement joint survivorship pension provided for under Section 45-37-123.101.

d. Death. If a member dies before or after payment of his or her deferred retirement benefit commences, the return of his or her employee contributions to the plan shall be governed by Section ~~45-37-123.104(5)b. or d.~~ 45-37-123.104(4)b. or d., respectively.

(2) REGULAR DEFERRED RETIREMENT BENEFIT.

a. Eligibility. Subject to the general eligibility requirements stated in subdivision (1), a member may elect a regular deferred retirement benefit if he or she has at least 10 years of paid membership time.

b. Calculation of Benefit/Vesting. The regular deferred retirement benefit shall be calculated by multiplying the superannuation retirement benefit that the member would have

been entitled to had he or she been 60 years of age when he or she terminated employment, times a percentage, which percentage shall be determined based upon the member's paid membership time~~,~~ and shall vest and become nonforfeitable as follows:

1. Ten years of paid membership time: 50 percent.

2. Eleven years of paid membership time: 60 percent.

3. Twelve years of paid membership time: 70 percent.

4. Thirteen years of paid membership time: 80 percent.

5. Fourteen years of paid membership time: 90 percent.

6. Fifteen or more years of paid membership time: 100 percent.

c. Commencement of Payment. ~~Payment~~ Subject to the requirements provided in subsection (e), payment of a member's regular deferred retirement benefit shall commence upon the date that the member reaches the age of 60 and shall continue for the life of the member, regardless of whether the member is employed with another employer at the time payment is to commence.

(3) INVOLUNTARY DEFERRED RETIREMENT BENEFIT.

a. 20/55 Provisions. Subject to the general eligibility requirements stated in subdivision (1), a member who is not entitled to voluntarily retire pursuant to subsection (a), superannuation retirement benefit, or subdivision (1) of subsection (b), regular early retirement benefit, but who is involuntarily retired after accumulating 20 years of service with the county, at least 10 of which is paid membership time, shall be entitled to receive a monthly benefit computed in

accordance with the formula set forth in subsection (a), superannuation retirement benefit, the payment of which shall commence upon his or her retirement if he or she has attained the age of 55; if the member has not attained the age of 55, payment shall be delayed until the member's attainment of age 55.

b. 18/60 Provisions. Subject to the general eligibility requirements stated in subdivision (1) and to this paragraph, a member who is not entitled to voluntarily retire pursuant to subsection (a), superannuation retirement benefit, or subdivision (1) of subsection (b), regular early retirement benefit, but who is involuntarily retired after accumulating 18 years of service with the county, at least 10 of which is paid membership time, shall be entitled to receive a monthly benefit computed in accordance with the formula set forth in subsection (a), superannuation retirement benefit, the payment of which shall commence as set forth below.

1. Member contributions. In order to receive a benefit under paragraph b., a member shall contribute to the plan from the date of the member's involuntary retirement to the date that the benefit commences, by the last day of each calendar month: (i) the amount of employee contributions that he or she would have made if he or she had continued to be employed by the county at the same salary as he or she was receiving at the time of his or her termination of employment, plus (ii) the amount which the county would have contributed to the plan on the member's behalf if he or she had continued to be employed by the county at the same salary as he or she was

receiving at the time of his or her termination of employment.

2. Commencement of payment. ~~Payment~~ Subject to the requirements provided in subsection (e), payment of a member's involuntary deferred retirement benefit under paragraph b. shall commence upon the earlier of: (i) the date on which the member attains the age of 60; or (ii) the date on which the member would have completed 30 years of service with the county, if he or she had continued employment with the county, regardless of whether the member is employed with another employer at the time payment is to commence; provided however, that if at the time payment of the deferred retirement benefit commences, he or she has not attained the age of 60, the amount of his or her monthly benefit computed in accordance with subsection (a), superannuation retirement benefit, shall be reduced in the same manner as the early retirement benefit is reduced under subdivision (1) of subsection (b).

(d) Offset for payment of hospital, surgical, and medical ~~benefits~~ premiums. To the extent that the county, with sufficient advance written notice, so directs the system, the system shall offset the monthly benefit amount payable to a retired member by an amount, determined by the county, needed to pay for the member's premiums for certain hospital, surgical, ~~and/or~~ or medical benefits, or any combination of them, sponsored by the county. The system shall pay such withheld amounts to the county on a monthly basis. In the event that the county makes an error in its written direction to the system, the system shall not be required to correct such error by adjusting its withholdings; rather, such error

shall be corrected between the county and the member. ~~At any time a written opinion from a competent actuary selected by the commission is made indicating that the funds and assets of the system are not actuarially sound, then the benefits of this subsection shall cease to be in effect until such time as an actuary appointed by the commission gives a written opinion that the system is financially sound. Any such actuarial services shall be paid for by the system.~~

(e) Member action required. A member shall complete all forms required by the pension board before payment of any benefit provided in this chapter may commence."

"§45-37-123.101

(a) Election of postretirement joint survivorship pension. In lieu of a benefit under subsections (a) to (c), inclusive, of Section 45-37-123.100, superannuation retirement benefit, early retirement benefit, or deferred retirement benefit, respectively, a member may elect to receive a postretirement joint survivorship pension.

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

a. Reduced monthly benefit payable over the life of the member and the life of the member's designated beneficiary, 50 percent postretirement joint survivorship pension.

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

c. Reduced monthly benefit payable over the life of the member and the life of the member's designated beneficiary, 75 percent postretirement joint survivorship pension.

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

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

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

b. Regular Form. Under the regular form, if the member's designated beneficiary predeceases the retired member, then the member shall continue to receive the same

amount that he or she was receiving prior to the designated beneficiary's death. The amount of the benefit payment shall not change.

(b) Timing of election. Except as provided in the immediately following sentence, in the event that a member desires to elect a postretirement joint survivorship pension, he or she shall do so in writing, on a form provided by the pension board, no later than the member's last day of employment. In the event that a member previously elected a deferred retirement benefit and desires to elect a postretirement joint survivorship pension, he or she shall do so in writing, on a form provided by the pension board, no later than the day before the member's sixtieth birthday.

(c) Timing of payments. Payment to the member commences on the day after the member terminates employment and shall continue to be paid each month thereafter until the member's death. If the member's designated beneficiary survives after the death of the member, the postretirement joint survivorship pension payments shall be made monthly to the designated beneficiary, beginning on the first day of the month following the member's death, ~~assuming~~ provided that the pension board is notified of the death in a timely manner and the designated beneficiary has completed all forms required by the pension board. Payments shall terminate with the first monthly payment preceding the second to die of the member and the designated beneficiary. In the event that a refund is to be paid pursuant to Section 45-37-123.104(4)c., such payment shall be made as soon as administratively feasible following the

member's/designated beneficiary's deaths.

(d) Cost of postretirement joint survivorship pension. To the extent that a member elects payment of a postretirement joint survivorship pension for his or her designated beneficiary, the benefit otherwise payable to the member shall be actuarially reduced to reflect the election of a postretirement joint survivorship pension.

(e) Changes in election. At any time before termination of employment, the member may cancel his or her election to have payment in such form by completing a form provided by the pension board. Except as otherwise stated herein, the member's election of a postretirement joint survivorship pension shall be irrevocable once the member terminates employment.

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

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

c. Death of Both Member and Designated Beneficiary-Refund. Except as provided in the immediately

following sentence, in the event that a payment begins to the member, no refund of employee contributions shall be paid thereafter. Notwithstanding the foregoing sentence, in the event that the member and his or her designated beneficiary die, a refund shall be made in accordance with Section 45-37-123.104(4)c.

(2) DIVORCE. In the event that a married member names his or her spouse as designated beneficiary, a subsequent divorce of the member and the designated beneficiary shall not cancel an election of a postretirement joint survivorship pension. However, in the event that a member or designated beneficiary presents to the pension board what the pension board believes to be a valid divorce decree, settlement agreement, or domestic relations order, collectively, a DRO, that provides for a waiver or forfeiture of the postretirement joint survivorship pension, then such waiver or forfeiture shall be recognized by the pension board, and, accordingly, the postretirement joint survivorship pension shall be deemed void, and the member's monthly pension benefit shall thereafter pop-up to the amount that would have been payable to the member under subsections (a) to (c) of Section 45-37-123.100, as applicable, as if the member had never elected a postretirement joint survivorship pension. Such pop-up shall occur in the month following the pension board's receipt and approval of the DRO. The member shall not be allowed to elect another joint survivorship pension. See also Section 45-37-123.194(a) for additional rules relating to certain DROs.

(f) ~~Beneficiary~~ Designated beneficiary designation. Any beneficiary designation made by a member for a preretirement joint survivorship pension shall automatically lapse upon the member's retirement or other termination of employment, and such member shall complete new forms, to be provided by the pension board, to designate a beneficiary of any postretirement joint survivorship pension, in accordance with ~~Section 45-37-123.103(d)~~ this section.

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

"§45-37-123.102

(a) Disability benefit.

(1)a. Non-service connected disability ~~benefits~~ benefit. Subject to subsection ~~(h)~~ (b), any member who, after accumulating 10 years of paid membership time, experiences a total or partial and permanent disability as a result of a non-service connected disability shall be entitled to receive, at the time set forth in subsection ~~(c)~~ (c), a monthly disability ~~retirement benefits~~ benefit determined in accordance with Section 45-37-123.100, as though the disabled member were entitled to a superannuation retirement benefit at the commencement of the disability; however, there shall be a percentage reduction of such benefit to reflect early commencement of the payment, such percentage to be based on the member's whole years from actual eligibility for a superannuation retirement benefit, as set forth below. Notwithstanding any provisions to the contrary, the minimum

monthly disability ~~retirement~~ benefit payable in connection with a non-service connected disability occurring before May 17, 2021, shall be 50 percent of the monthly compensation the member was receiving at the time he or she experienced a total and permanent disability.

Number of Whole Years Until Eligibility for Superannuation Retirement Benefit	Percentage Reduction of Superannuation Retirement Benefit
1	93%
2	87%
3	82%
4	77%
5	72%
6	68%
7	64%
8	60%
9	57%
10	54%
11 or more	50%

b. Any member who, after accumulating 10 years of paid membership time, experiences a partial and permanent disability as a result of a non-service connected disability, shall be entitled to receive a monthly disability benefit determined in accordance with subdivision (3).

~~(b)~~ (2) Service connected disability ~~benefits~~ benefit. Subject to subsection ~~(h)~~ (b), any member who experiences a total or partial and permanent disability as a result of a service connected disability shall be entitled to receive a monthly disability ~~retirement benefits~~ benefit in an amount equal to 60 percent of the member's monthly compensation that he or she was receiving at the time he or she experienced a total and permanent disability. Any member who experiences a partial and permanent disability as a result of a service connected disability shall be entitled to receive a monthly disability benefit determined in accordance with subdivision (3).

~~(c)~~ (3) Partial disability benefits. In the event that a member experiences a partial and permanent disability in connection with either a non-service connected disability or a service connected disability, the pension board and its medical advisor shall determine the percentage of disability suffered, and the member shall be entitled to the proportion of the amount which would have been payable if the disability were a total permanent disability.

(b) Conditions for eligibility.

(1) Disability shall be permanent. To be qualified to receive a disability benefit, the disability, whether total or partial, shall be permanent and shall be experienced on or before a member's separation from employment with the county. Disability benefits under this subsection shall only continue for such time as a member continues to experience a permanent disability, whether total or partial.

(2) Application and medical examination. Applications for a disability benefit shall be made in writing on forms provided by the pension board. All applicants for a disability benefit shall submit to all medical evaluations and examinations required by the pension board.

(3) Certification and reexamination. All members receiving a disability benefit shall certify any information required by the pension board and shall submit to reexamination as required by the pension board.

(4) Member's duty to inform. Members receiving a disability benefit shall notify the pension board in writing within 30 days after accepting any full-time or part-time employment, whether or not the employment is in the service of the county.

~~(d)~~ (5) Disqualification from receipt of a disability ~~benefits~~ benefit. No disability ~~retirement benefits~~ benefit shall be paid if the use of intoxicating liquor, narcotic drugs, or willful misconduct of the disabled member caused, or substantially contributed to, the disability or if the cause of the disability was voluntarily and willfully caused by the disabled member.

~~(c)~~ (c) Timing of payment. Payment of disability retirement benefits provided for by this section shall commence when the member separates from employment with the county and ceases to receive his or her compensation subject to the employee contribution requirements set forth in Section ~~45-37-123.80~~ 45-37-123.82 and once a determination of disability has been made by the pension board.

~~(f) Reexamination of members receiving disability benefits. Disability retirement benefits under this section shall only continue for such time as the member continues to experience a total disability, or a partial disability as determined under subsection (c). The pension board may require any member receiving disability retirement benefits to submit to a medical examination by the medical advisor. If the member refuses to undergo the medical examination ordered by the pension board, the member's disability retirement benefits may be discontinued until the member consents to the examination. If a member's disability retirement benefits are discontinued based on the member's refusal to allow a reexamination by the medical advisor, the member shall wholly lose such benefits between the date of the member's refusal or failure to allow the examination and the date of examination thereafter made. Should the medical advisor report to the pension board that the member receiving disability retirement benefits is able to resume his or her usual occupation, such member shall be restored to his or her former position if the member's position is in the service of the county; otherwise, the member shall be placed on the appropriate layoff list of the county and shall not receive any additional payments for disability on and after the date the member is reemployed by the county or fails or refuses to accept such reemployment. If the member is reemployed by the county, the member shall resume employee contributions immediately upon reemployment in accordance with Section 45-37-123.80. Provided however, the pension board shall in no case make additional disability~~

~~retirement benefit payments to a member on a particular disability claim beyond six months from the date the medical advisor reports to the pension board that the member is able to resume his or her usual occupation.~~

~~(g)~~ (d) Ineligibility for joint survivorship pension option. A member electing a disability ~~retirement~~ benefit shall not be entitled to elect a joint survivorship pension provided under Section 45-37-123.101, though a member may elect a 25-year early retirement benefit if such member has met the eligibility requirements set forth in Section 45-37-123.100(b)(2).

~~(h)~~ (e) Ineligibility for disability ~~retirement~~ benefit if eligible for a superannuation retirement benefit. In the event that a member is eligible for a superannuation retirement benefit pursuant to Section 45-37-123.100(a), such member shall not be eligible for a disability ~~retirement~~ benefit.

(f) Reemployment with the county. No disability benefit shall be paid to a disabled member who is reemployed by the county. Upon reemployment by the county in a position subject to mandatory membership as provided in Section 45-37-123.50(1), a reemployed member shall resume employee contributions as provided in Section 45-37-123.82 as a new member of the system with no paid membership time. Upon reemployment by the county in a position subject to optional membership, the member's membership in the system shall terminate unless the option to become a member of the system is exercised in accordance with Section 45-37-123.50(2). If

the option to become a member is exercised in accordance with Section 45-37-123.50(2), the reemployed member shall resume employee contributions as provided in Section 45-37-123.82 as a new member of the system with no paid membership time.

~~(i)~~ (g) Death. If a member dies while receiving payment of a disability ~~retirement~~ benefit, the return of any remaining portion of his or her employee contributions shall be governed by Section ~~45-37-123.104(5)d~~ 45-37-123.104(4)d. If the member has received payments in an amount at least equal to the amount of employee contributions he or she made to the plan at the time of death, then no further payments shall be made upon the member's death."

"§45-37-123.103

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

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

a. One Hundred Percent Preretirement Joint Survivorship Pension. If such member was eligible for a deferred retirement benefit at the time of the member's death, then the designated beneficiary may elect to be paid in the form of a 100 percent preretirement joint survivorship pension, which is a monthly annuity paid during the designated beneficiary's lifetime which is equal to the actuarial equivalent of the benefits that would have been paid to the member if, instead of dying,

the member had terminated employment.

b. Refund. The designated beneficiary may elect a refund of the member's employee contributions in accordance with Section 45-37-123.104(4)b.

(2) UNMARRIED MEMBER. If an unmarried, active member dies, then one of the following shall apply:

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

b. Refund. Regardless of whether the member makes an election for the designated beneficiary to be paid in the form of a preretirement joint survivorship pension in accordance with paragraph a., upon the member's death, the designated beneficiary can elect to be paid a refund of the member's employee contributions in accordance with Section

45-37-123.104(4)b. instead of being paid a preretirement joint survivorship pension.

(b) Timing of payments. In the event of an election of a preretirement joint survivorship pension, such payment shall begin as soon as administratively feasible after the pension board is notified of the death and the designated beneficiary's completion of all forms required by the pension board. In any event, calculation of the amount of the death benefit shall be made as of the day after the date of death and any payments that do not occur as of the month following the date of death shall be included in future payments. In the event that a refund is to be paid, such payment shall be made as soon as administratively feasible following the member's death.

(c) Cost of preretirement joint survivorship pension.

(1) MARRIED MEMBERS.

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

b. Prior to October 1, 1999. Prior to October 1, 1999, a 50 percent preretirement joint survivorship pension was provided to a member who was married at the time of his or her

death, instead of 100 percent, and such members and their designated beneficiaries had an option to elect higher percentages under certain rules. Members and designated beneficiaries who elected a higher than 50 percent preretirement joint survivorship pension prior to October 1, 1999, shall be charged for the increased percentage according to actuarially-calculated costs, beginning with the date of the election through September 30, 1999.

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

(d) Designated Beneficiaries.

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

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

b. The member has been abandoned, within the meaning of local law, and the member has a court order to such effect that has been received and approved by the pension board; or

c. The member has no spouse.

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

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

(4) FAILURE TO DESIGNATE A BENEFICIARY OR LACK OF DESIGNATED BENEFICIARY. In the event no valid designation of beneficiary exists, or if the designated beneficiary is not alive at the time of the member's death, the death benefit shall be payable to the member's spouse if there is a spouse, and if there is no spouse, to the member's estate. If there is no estate, the death benefit may be interpleaded into a court of competent jurisdiction. Additionally, if the designated beneficiary does not predecease the member, but dies prior to

the distribution of the death benefit, the death benefit shall be paid to the designated beneficiary's estate. If there is no estate, the death benefit may be interpleaded into a court of competent jurisdiction.

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

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

(7) LAPSE OF BENEFICIARY DESIGNATION. Any beneficiary designation made by a member for a preretirement joint survivorship pension or refund shall automatically lapse upon the member's election of a postretirement joint survivorship pension; at that time, the member shall complete new forms, to be provided by the pension board, to designate a beneficiary of any postretirement joint survivorship pension.

(8) EFFECT OF MARRIAGE OR DIVORCE UPON A BENEFICIARY DESIGNATION. Except in the case of a preretirement joint survivorship pension, marriage or divorce does not change any previous beneficiary designation. In the case of a preretirement joint survivorship pension, if an unmarried member gets married, such member's spouse shall automatically

become the member's designated beneficiary, which can thereafter be waived in accordance with subdivision (1).

(9) DISTRIBUTION FOR MINOR OR INCOMPETENT BENEFICIARY. In the event a distribution is to be made to a minor or incompetent designated beneficiary, then the pension board may direct that such distribution be paid to the legal guardian, or if none in the case of a minor designated beneficiary, to a parent of such designated beneficiary or a responsible adult with whom the designated beneficiary maintains residence, or to the custodian for such designated beneficiary under the Uniform Gift to Minors Act or Gift to Minors Act, if permitted by the laws of the state in which the designated beneficiary resides. Such a payment to the legal guardian, custodian, or parent of a minor designated beneficiary shall fully discharge the trustee, the county, the pension board, and the plan from further liability on account thereof. The pension board may require evidence of guardianship, existence of custodial accounts, or any other documentation that is deemed prudent to establish that payment shall be made properly.

(e) Other death benefits. Upon a member's retirement or other termination of employment, any preretirement joint survivorship pension benefit coverage ceases. Any other benefits to be paid upon the death of a member or designated beneficiary, such as refunds, are governed by Section 45-37-123.104(4).

(f) Proof of death and marriage. The pension board may require proper proof of death and marriage and evidence of the right of any ~~person~~ individual to receive the death benefit

payable as a result of the death of a member as the pension board may deem desirable. Proof may include a certified marriage certificate, certified death certificate of the member, and affidavits of relatives, members, or other ~~persons~~ individuals knowledgeable of the fact of marriage. ~~If no marriage certificate is available and for~~ For common law ~~marriage~~ marriages entered into before January 1, 2017, proof shall include evidence of the existence of the marriage as may be required by law and also may require indemnification and hold harmless agreements. The pension board may require that unclear cases be adjudicated in an appropriate court proceeding. An unmarried member may be required by the pension board to sign an affidavit to certify that such member is not married. The pension board's determination of death benefits and the right of any ~~person~~ individual to receive payment shall be conclusive."

"§45-37-123.104

The following provisions generally govern a member's withdrawal and refund of employee contributions under the plan. ~~Any member who fails to make application for the amount of his or her employee contributions pursuant to this section within five years after his or her separation from the service of the county, except as otherwise provided herein or otherwise determined by the pension board, shall be deemed to have forfeited and donated such employee contributions to the trust fund pursuant to Section 45-37-123.83. The foregoing five year rule only applies to a member; in the case of a beneficiary, the pension board may only forfeit employee~~

~~contributions after it has exhausted reasonable efforts to locate the beneficiary.~~

(1) WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS BY NONVESTED MEMBERS NOT ENTITLED TO A DEFERRED RETIREMENT BENEFIT. In the event that a nonvested member ceases to be an employee of the county for reasons other than retirement, death, or disability before he or she is eligible for a deferred retirement benefit, such nonvested member, upon written or electronic application therefore to the pension board, shall be paid the full amount of his or her employee contributions, without interest.

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

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

b. Rules and Regulations. The pension board shall establish rules and regulations setting forth the amount of interest payable to members under this subdivision. In

establishing such rules and regulations, the pension board shall take into consideration the interest the system has earned on the employee contributions paid ~~into~~ to the ~~trust fund~~ system on account of the member withdrawing such employee contributions. The pension board may amend such rules and regulations at any time in its sole discretion.

(3) PARTIAL REFUND OF EMPLOYEE CONTRIBUTIONS AND CESSATION OF EMPLOYEE CONTRIBUTIONS AND EMPLOYER CONTRIBUTIONS. When a member attains 30 years of paid membership time, the member may elect to terminate his or her employee contributions by filing with the pension board a statement signed by the member stating that he or she elects to terminate his or her employee contributions; in such case, the employer contribution to the ~~trust fund~~ system on the member's behalf shall cease. As soon as practicable after a member files such statement, the pension board shall refund to him or her all employee contributions, without interest, made by him or her to the ~~trust fund~~ system subsequent to the date on which the member accumulated sufficient service to entitle him or her to ~~the maximum benefit that can be provided under the plan~~ terminate his or her employee contributions; additionally the pension board shall refund to the county any associated employer contributions, without interest.

(4) REFUNDS UPON DEATH OF A MEMBER.

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

contributions, without interest, may be refunded to the member's designated beneficiary in lump sum form.

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

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

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

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

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

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

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

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

(iii) The member's employee contributions shall exceed the sum of all monthly ~~retirement~~ pension benefits the plan has paid to the member ~~and/or~~ or the member's designated beneficiary, or both.

3. Amount of refund. If each of the requirements in subparagraph 1. and subparagraph 2. are met, and the pension

board has adopted rules and regulations in accordance with subparagraph 2., then the amount of the refund shall be equal to the amount by which the member's employee contributions exceed the sum of all monthly ~~retirement~~ pension benefits the plan has paid to such member ~~and/or such~~ or the member's designated beneficiary, or both, with interest as provided by rules and regulations adopted by the pension board.

4. Payment made to designated contingent beneficiary. A refund pursuant to this paragraph shall be paid to the member's designated contingent beneficiary, or, to the member's estate if the designated contingent beneficiary also is deceased or there is no other properly designated contingent beneficiary. If there is no estate, a refund pursuant to this paragraph may be interpleaded into a court of competent jurisdiction.

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

d. Refund of Employee Contributions for Deceased Members Who Were Receiving Superannuation, Early, Disability, or Deferred Retirement Benefit Payments. In the event that a member dies while receiving a superannuation retirement benefit, an early retirement benefit, a disability ~~retirement~~ benefit, or a deferred retirement benefit, then his or her designated beneficiary shall be entitled to receive a refund in an amount equal to the amount by which the member's

employee contributions exceed the sum of all monthly ~~retirement~~ pension or disability benefits the plan has paid to such member, with interest.

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

(5) EMPLOYER CONTRIBUTIONS REMAIN IN TRUST FUND. Employer contributions are never refunded to the member or the member's designated beneficiary. All associated employer contributions shall remain in the trust fund, except such employer contributions that are returned to the county pursuant to subdivision (7).

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

(7) REFUNDS TO CORRECT ERRORS. The pension board, in its sole discretion, may refund employee contributions and associated employer contributions to the county to correct various errors, such as, inclusion in the plan of an ineligible individual or overpayment of employee contributions, in accordance with Section 45-37-123.23(b).

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

(9) TIMING OF REFUND PAYMENTS. In the event that a refund is to be paid, such payment shall be made as soon as

administratively practical following the date upon which entitlement to the refund occurs.

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

"§45-37-123.106

(a) General rules.

(1) EFFECTIVE DATE. Except as otherwise provided herein, the provisions of this section shall apply for purposes of determining required minimum distributions for calendar years beginning on and after January 1, 1987.

(2) REQUIREMENTS OF TREASURY REGULATIONS INCORPORATED. All distributions required under this section shall be determined and made in accordance with § 401(a)(9), Internal Revenue Code, including the incidental death benefit requirement in § 401(a)(9)(G), and the regulations thereunder.

(3) PRECEDENCE. Subject to the joint and survivor annuity requirements of the plan, the requirements of this section shall take precedence over any inconsistent provisions of the plan.

(b) Time and manner of distribution.

(1) REQUIRED BEGINNING DATE. The member's entire interest shall be distributed, or begin to be distributed, to the member no later than the member's required beginning date.

(2) DEATH OF MEMBER BEFORE DISTRIBUTIONS BEGIN. If the member dies before distributions begin, the member's entire

interest shall be distributed, or begin to be distributed, no later than as follows:

a. Life Expectancy Rule, Spouse is Designated Beneficiary. At the election of the member or, if no election is made by the member, then at the election of the member's designated beneficiary, if the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse shall begin by December 31st of the calendar year immediately following the calendar year in which the member died, or by December 31st of the calendar year in which the member would have attained age ~~72~~ 73, for those members who would have attained age 72 after December 31, 2022, and age 73 before January 1, 2033; or age 75, for those members who would have attained age 73 after December 31, 2032, if later.

b. Life Expectancy Rule, Spouse is Not Designated Beneficiary. At the election of the member or, if no election is made by the member, then at the election of the member's designated beneficiary, if the member's surviving spouse is not the member's sole designated beneficiary, then distributions to the designated beneficiary shall begin by December 31st of the calendar year immediately following the calendar year in which the member died.

c. Five-Year Rule.

1. At the election of the member or, if no election is made by the member, then at the election of the member's designated beneficiary, if the member dies before distributions begin and there is a designated beneficiary,

then the member's entire interest shall be distributed to the designated beneficiary by December 31st of the calendar year containing the fifth anniversary of the member's death. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to either the member or the surviving spouse begin, then this paragraph shall apply as if the surviving spouse were the member. This paragraph shall apply to all distributions.

2. Members or designated beneficiaries may elect on an individual basis whether the ~~5-year~~ five-year rule in this paragraph or the life expectancy rule in paragraph a. or paragraph b., and subsection (e) applies to distributions after the death of a member who has a designated beneficiary. The election shall be made no later than the earlier of September 30th of the calendar year in which distribution would be required to begin under paragraph a. or paragraph b., or by September 30th of the calendar year which contains the fifth anniversary of the member's, or, if applicable, surviving spouse's, death under this paragraph. If neither the member nor designated beneficiary makes an election under this subparagraph, distributions shall be made in accordance with paragraph a. or paragraph b., and subsection (e).

d. No Designated Beneficiary, Five-Year Rule. If there is no designated beneficiary as of September 30th of the year following the year of the member's death, the member's entire interest shall be distributed by December 31st of the calendar year containing the fifth anniversary of the member's death.

e. Surviving Spouse Dies Before Distributions Begin.

1. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, then this subsection, other than paragraph a., shall apply as if the surviving spouse were the member.

2. For purposes of this subsection and subsection (e), distributions are considered to begin on the member's required beginning date, or, if this paragraph applies, the date distributions are required to begin to the surviving spouse under paragraph a. If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph a., the date distributions are considered to begin is the date distributions actually commence.

(3) FORM OF DISTRIBUTION. Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions shall be made in accordance with subsections (c), (d), and (e). If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of § 401(a)(9), Internal Revenue Code, and the regulations thereunder. Any part of the member's interest which is in the form of an individual account described in § 414(k), Internal Revenue Code, shall be distributed in a

manner satisfying the requirements of § 401(a)(9) and the regulations thereunder applicable to individual accounts.

(c) Determination of amount to be distributed each year.

(1) GENERAL ANNUITY REQUIREMENTS. A member who is required to begin payments as a result of attaining his or her required beginning date, whose interest has not been distributed in the form of an annuity purchased from an insurance company or in a single sum before such date, may receive payments in the form of annuity payments under the plan. Payments under such annuity shall satisfy the following requirements:

a. The annuity distributions shall be paid in periodic payments made at intervals not longer than one year.

b. The distribution period shall be over a life, or lives, or over a period certain not longer than the period described in subsection (d) or subsection (e).

c. Once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted.

d. Payments shall either be nonincreasing or increase only to the extent permitted by one of the following conditions:

1. By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that for a 12-month period ending in the year during which the increase occurs or the prior year.

2. By a percentage increase that occurs at specified

times, such as, at specified ages, and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index since the annuity starting date, or if later, the date of the most recent percentage increase. In cases providing a cumulative increase, an actuarial increase may not be provided to reflect the fact that increases were not provided in the interim years.

3. To the extent of the reduction in the amount of the member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subsection (d) dies or is no longer the member's designated beneficiary pursuant to a qualified domestic relations order within the meaning of § 414(p), Internal Revenue Code.

4. To allow a designated beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the member's death.

5. To pay increased benefits that result from a plan amendment or other increase in the member's accrued benefit under the plan.

6. By a constant percentage, applied not less frequently than annually, at a rate that is less than five percent per year.

7. To provide a final payment upon the death of the member that does not exceed the excess of the actuarial present value of the member's accrued benefit, within the meaning of § 411(a)(7), Internal Revenue Code, calculated as of the annuity starting date using the applicable interest

rate and the applicable mortality table under § 417(e), Internal Revenue Code, or, if greater, the total amount of employee contributions, over the total of payments before the death of the member.

8. As a result of dividend or other payments that result from actuarial gains, provided:

(i) Actuarial gain is measured not less frequently than annually;

(ii) The resulting dividend or other payments are either paid no later than the year following the year for which the actuarial experience is measured or paid in the same form as the payment of the annuity over the remaining period of the annuity, beginning no later than the year following the year for which the actuarial experience is measured;

(iii) The actuarial gain taken into account is limited to actuarial gain from investment experience;

(iv) The assumed interest rate used to calculate such actuarial gains is not less than three percent; and

(v) The annuity payments are not also being increased by a constant percentage as described in subparagraph 6.

(2) AMOUNT REQUIRED TO BE DISTRIBUTED BY REQUIRED BEGINNING DATE.

a. In the case of a member whose interest in the plan is being distributed as an annuity pursuant to subdivision (1), the amount that shall be distributed on or before the member's required beginning date, or, if the member dies before distributions begin, the date distributions are required to begin under paragraph a. or b. of subdivision (2)

of subsection (b), is the payment that is required for one payment interval.

The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year.

Payment intervals are the periods for which payments are received, such as, bimonthly, monthly, semi-annually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

b. In the case of a single sum distribution of a member's entire accrued benefit during a distribution calendar year, the amount that is the required minimum distribution for the distribution calendar year, and thus not eligible for rollover under § 402(c), Internal Revenue Code, is determined under this paragraph. The portion of the single sum distribution that is a required minimum distribution is determined by treating the single sum distribution as a distribution from an individual account plan and treating the amount of the single sum distribution as the member's account balance as of the end of the relevant valuation calendar year. If the single sum distribution is being made in the calendar year containing the required beginning date and the required minimum distribution for the member's first distribution calendar year has not been distributed, the portion of the single sum distribution that represents the required minimum

distribution for the member's first and second distribution calendar year is not eligible for rollover.

(3) ADDITIONAL ACCRUALS AFTER FIRST DISTRIBUTION CALENDAR YEAR. Any additional benefits accruing to the member in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues. Notwithstanding the preceding, the plan shall not fail to satisfy the requirements of this subdivision and § 401(a)(9), Internal Revenue Code, merely because there is an administrative delay in the commencement of the distribution of the additional benefits accrued in a calendar year, provided that the actual payment of such amount commences as soon as practicable. However, payment shall commence no later than the end of the first calendar year following the calendar year in which the additional benefit accrues, and the total amount paid during such first calendar year shall be no less than the total amount that was required to be paid during that year under this subdivision.

(4) DEATH OF MEMBER AFTER DISTRIBUTIONS BEGIN. If a member dies after distribution of the member's interest begins in the form of an annuity meeting the requirements of this section, then the remaining portion of the member's interest shall continue to be distributed over the remaining period over which distributions commenced.

(d) Requirements for annuity distributions that commence during member's lifetime.

(1) JOINT LIFE ANNUITIES WHERE THE DESIGNATED BENEFICIARY IS THE MEMBER'S SPOUSE. If distributions commence under a distribution option that is in the form of a joint and survivor annuity for the joint lives of the member and the member's spouse, the minimum distribution incidental benefit requirement shall not be satisfied as of the date distributions commence unless, under the distribution option, the periodic annuity payment payable to the survivor does not at any time on and after the member's required beginning date exceed the annuity payable to the member. In the case of an annuity that provides for increasing payments, the requirement of this subdivision shall not be violated merely because benefit payments to the designated beneficiary increase, provided the increase is determined in the same manner for the member and the designated beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the member and the member's spouse and a period certain annuity, the preceding requirements shall apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(2) JOINT LIFE ANNUITIES WHERE THE DESIGNATED BENEFICIARY IS NOT THE MEMBER'S SPOUSE. If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a designated beneficiary other than the member's spouse, the minimum distribution incidental benefit requirement shall not be satisfied as of the date distributions commence unless under the distribution option, the annuity payments to be made

on and after the member's required beginning date shall satisfy the conditions of this subdivision. The periodic annuity payment payable to the survivor shall not at any time on and after the member's required beginning date exceed the applicable percentage of the annuity payment payable to the member using the table set forth in Treasury Regulation § 1.401(a)(9)-6, Q & A-2(c)(2). The applicable percentage is based on the adjusted member/designated beneficiary age difference. The adjusted member/designated beneficiary age difference is determined by first calculating the excess of the age of the member over the age of the designated beneficiary based on their ages on their birthdays in a calendar year. If the member is younger than age 70, the age difference determined in the previous sentence is reduced by the number of years that the member is younger than age 70 on the member's birthday in the calendar year that contains the annuity starting date. In the case of an annuity that provides for increasing payments, the requirement of this subdivision shall not be violated merely because benefit payments to the designated beneficiary increase, provided the increase is determined in the same manner for the member and the designated beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the member and a ~~nonspouse~~ non-spouse designated beneficiary and a period certain annuity, the preceding requirements shall apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(3) PERIOD CERTAIN ANNUITIES. Unless the member's

spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime may not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in Treasury Regulation § 1.401(a)(9)-9 for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age 70, the applicable distribution period for the member is the distribution period for age 70 under the Uniform Lifetime Table set forth in Treasury Regulation § 1.401(a)(9)-9 plus the excess of 70 over the age of the member as of the member's birthday in the year that contains the annuity starting date. If the member's spouse is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the member's applicable distribution period, as determined under this subdivision, or the joint life and last survivor expectancy of the member and the member's spouse as determined under the Joint and Last Survivor Table set forth in Treasury Regulation § 1.401(a)(9)-9, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.

(e) Requirements for minimum distributions where member dies before date distributions begin.

(1) MEMBER SURVIVED BY DESIGNATED BENEFICIARY AND LIFE EXPECTANCY RULE.

At the election of the member or, if no election is made by the member, then at the election of the member's designated beneficiary, if the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest shall be distributed, beginning no later than the time described in paragraph a. or b. of subdivision (2) of subsection (b), over the life of the designated beneficiary or over a period certain not exceeding:

a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the designated beneficiary's age as of the designated beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the designated beneficiary's age as of the designated beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) MEMBER SURVIVED BY DESIGNATED BENEFICIARY AND FIVE-YEAR RULE. At the election of the member or, if no election is made by the member, then at the election of the member's designated beneficiary, if the member dies before distributions begin and there is a designated beneficiary, then the member's entire interest shall be distributed to the designated beneficiary by December 31st of the calendar year containing the fifth anniversary of the member's death. This

subdivision shall apply to all distributions.

(3) NO DESIGNATED BENEFICIARY. If the member dies before the date distributions begin and there is no designated beneficiary as of September 30th of the year following the year of the member's death, distribution of the member's entire interest shall be completed by December 31st of the calendar year containing the fifth anniversary of the member's death.

(4) DEATH OF SURVIVING SPOUSE BEFORE DISTRIBUTIONS TO SURVIVING SPOUSE BEGIN. If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection shall apply as if the surviving spouse were the member, except that the time by which distributions shall begin shall be determined without regard to paragraph a. of subdivision (2) of subsection (b).

(f) Definitions.

(1) ACTUARIAL GAIN. The difference between an amount determined using the actuarial assumptions, such as, investment return, mortality, expense, and other similar assumptions, used to calculate the initial payments before adjustment for any increases and the amount determined under the actual experience with respect to those factors. Actuarial gain also includes differences between the amount determined using actuarial assumptions when an annuity was purchased or commenced and such amount determined using actuarial assumptions used in calculating payments at the time the

actuarial gain is determined.

(2) DESIGNATED BENEFICIARY. The individual who is ~~designated as the beneficiary under Section 45-37-123.103 and is~~ the designated beneficiary under § 401(a)(9), Internal Revenue Code, and Treasury Regulation ~~§ 1.401(a)(9)-1, Q & A-4~~ § 1.401(a)(9)-4 and is designated as the beneficiary under Section 45-37-123.103 to the extent not otherwise inconsistent with the Internal Revenue Code or regulations thereunder.

(3) DISTRIBUTION CALENDAR YEAR. A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to subsection (b).

(4) ELIGIBLE COST-OF-LIVING INDEX. An index described below:

a. A consumer price index that is based on prices of all items, or all items excluding food and energy, and issued by the Bureau of Labor Statistics, including an index for a specific population, such as urban consumers or urban wage earners and clerical workers, and an index for a geographic area or areas, such as a given metropolitan area or state; or

b. A percentage adjustment based on a cost-of-living index described in paragraph a., or a fixed percentage, if less. In any year when the cost-of-living index is lower than

the fixed percentage, the fixed percentage may be treated as an increase in an eligible cost-of-living index, provided it does not exceed the sum of:

1. The cost-of-living index for that year; and

2. The accumulated excess of the annual cost-of-living index from each prior year over the fixed annual percentage used in that year, reduced by any amount previously utilized under this paragraph.

c. A percentage adjustment based on the increase in compensation for the position held by the member at the time of retirement, and provided under the terms of the plan.

(5) LIFE EXPECTANCY. The life expectancy as computed by use of the Single Life Table in Treasury Regulation § 1.401(a)(9)-9.

(6) REQUIRED BEGINNING DATE. The April 1st of the calendar year following the later of:

a. The calendar year in which the member attains age ~~72~~ 73, for those members who attain age 72 after December 31, 2022, and age 73 before January 1, 2033; or attains age 75, for those members who attain age 73 after December 31, 2032; or

b. The calendar year in which the member retires."

"§45-37-123.108

Except as otherwise specifically provided in this section, this section shall be effective as of January 1, 1993.

(1) ROLLOVERS GENERALLY.

a. Notwithstanding any provision of the plan to the

contrary that would otherwise limit a distributee's election under this section, a distributee, at the time and in the manner prescribed by the pension board, may elect to have any portion of an eligible rollover distribution that is equal to at least two hundred dollars ($200) paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

b. For purposes of this subdivision, the following definitions shall apply:

1.(i) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: Any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under § 401(a)(9), Internal Revenue Code; the portion of any other distribution that is not includible in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities; any hardship distribution; and any other distribution that is reasonably expected to total less than two hundred dollars ($200) during a year.

(ii) Notwithstanding the above, with respect to distributions made after December 31, 2001, a portion of a

distribution shall not fail to be an eligible rollover distribution merely because the portion consists of ~~aftertax~~ after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in § 408(a) or (b), Internal Revenue Code, or to a qualified trust described in § 401(a), Internal Revenue Code, or annuity contract described in § 403(a), Internal Revenue Code, that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

2. With respect to distributions made after December 31, 2001, an eligible retirement plan is an individual retirement account described in § 408(a), Internal Revenue Code, an individual retirement annuity described in § 408(b), Internal Revenue Code, other than an endowment contract, a qualified trust described in § 401(a), Internal Revenue Code, which is exempt from tax under § 501(a), Internal Revenue Code, that accepts the distributee's eligible rollover distribution, an annuity plan described in § 403(a), Internal Revenue Code, an eligible deferred compensation plan described in § 457(b), Internal Revenue Code, which is maintained by an eligible employer described in § 457(e)(1)(A), Internal Revenue Code, and an annuity contract described in § 403(b), Internal Revenue Code, that accepts the distributee's eligible rollover distribution.

3. A distributee includes an employee or former

employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in § 414(p), Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.

4. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(2) DIRECT ROLLOVERS BY NON-SPOUSE DESIGNATED BENEFICIARIES.

a. Notwithstanding the direct rollover provisions in subdivision (1), for distributions after December 31, 2009, in accordance with § 402(c)(11), Internal Revenue Code, a non-spouse beneficiary who is a designated beneficiary, as defined in § 401(a)(9)(E), Internal Revenue Code, and the regulations thereunder, by means of a direct trustee-to-trustee transfer, may roll over all or any portion of an eligible rollover distribution, as defined in § 401(a)(31), Internal Revenue Code, to an individual retirement plan the designated beneficiary establishes for purposes of receiving the distribution. If a non-spouse designated beneficiary receives a distribution from the plan, the distribution is not eligible for a 60-day, non-direct rollover.

b. If the member's named designated beneficiary is a trust, the plan may make a direct trustee-to-trustee transfer to an individual retirement plan on behalf of the trust, provided the trust satisfies the requirements to be a

designated beneficiary within the meaning of § 401(a)(9)(E), Internal Revenue Code.

c. A non-spouse designated beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable regulations and other Internal Revenue Service guidance. If the member dies before the member's required beginning date and the non-spouse designated beneficiary rolls over to an individual retirement plan the maximum amount eligible for rollover, the non-spouse designated beneficiary may elect to use either the five-year rule or the life expectancy rule, pursuant to Treasury Regulation § 1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the individual retirement plan that receives the non-spouse designated beneficiary's distribution.

(3) ROLLOVER TO ROTH IRA. For distributions made after December 31, 2007, in accordance with § 408A, Internal Revenue Code, a member may elect to roll over directly an eligible rollover distribution to a Roth IRA, as defined in § 408A(b), Internal Revenue Code."

"§45-37-123.132

(a) Adjustment if fewer than 10 years. Effective for limitation years ending after December 31, 2001, if a member has fewer than 10 years of participation in the plan, then the defined benefit dollar limitation of Section 45-37-123.131(a) shall be multiplied by a fraction, the numerator of which is the number of years, or part thereof, of participation in the plan, and the denominator of which is 10. However, in no event

shall such fraction be less than one-tenth. Notwithstanding the foregoing, no adjustment shall be made to the defined benefit dollar limitation for a distribution on account of a member becoming disabled by reason of personal injuries or sickness, or as a result of the death of a member. For purposes of this subsection, a year of participation means each accrual computation period for which the following conditions are met: The member is credited with a period of service for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, and the member is included as a member under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a year of participation credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of § 415(c)(3)(C)(i), Internal Revenue Code, for an accrual computation period shall receive a year of participation with respect to the period. In no event shall more than one year of participation be credited for any 12-month period.

(b) Adjustment of defined benefit dollar limitation for commencement before age 62. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the member’s benefit is before age 62.

(1) LIMITATION YEARS BEGINNING BEFORE JULY 1, 2007. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation with actuarial equivalence computed using whichever of the following produces the smaller annual amount: The applicable interest rate and applicable mortality table, or other tabular factor, as defined in § 417(e)(3), Internal Revenue Code; or a five percent interest rate assumption and the applicable mortality table as defined in § 417(e)(3), Internal Revenue Code.

(2) LIMITATION YEARS BEGINNING ON OR AFTER JULY 1, 2007.

a. Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined

benefit dollar limitation with actuarial equivalence computed using a five percent interest rate assumption and the applicable mortality table under Treasury Regulation § 1.417(e)-1(d)(2), or the applicable mortality table as required by law, that is effective for that annuity starting date, and expressing the member’s age based on completed calendar months as of the annuity starting date.

b. Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the lesser of the limitation determined under paragraph a. and the defined benefit dollar limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this subpart.

(3) MORTALITY ADJUSTMENTS. Notwithstanding the other requirements of this subsection, no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a member's death between the annuity starting date and age 62 if benefits are not forfeited upon the death

of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the plan does not charge members for providing a qualified preretirement survivor annuity, as defined in § 417(c), Internal Revenue Code, upon the member's death.

(4) EXCEPTION FOR CERTAIN MEMBERS TO THE ADJUSTMENT OF DEFINED BENEFIT DOLLAR LIMITATION FOR COMMENCEMENT BEFORE AGE 62.

a. Qualified Participants. Pursuant to § 415(b)(2)(G) and (H), Internal Revenue Code, no age adjustment is made to the defined benefit dollar limitation for commencement before age 62 for any qualified participant. For this purpose, a qualified participant is a participant in a defined benefit plan that is maintained by a state or any political subdivision of a state with respect to whom the service taken into account in determining the amount of the benefit under the defined benefit plan includes at least 15 years of service of the participant as a full-time employee of any police department or fire department that is organized and operated by the state or political subdivision maintaining such defined benefit plan to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such state or political subdivision, or as a member of the Armed Forces of the United States.

b. Survivor and Disability Benefits. Pursuant to §

415(b)(2)(I), Internal Revenue Code, no age adjustment is made to the defined benefit dollar limitation for commencement before age 62 for a distribution from the plan on account of a member becoming disabled by reason of personal injuries or sickness, or as a result of the death of a member.

(c) Actuarial equivalence of forms of benefit other than a straight life annuity. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with subdivision (1) or subdivision (2).

(1) BENEFIT FORMS NOT SUBJECT TO § 417(e)(3), INTERNAL REVENUE CODE. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this subdivision if the form of the member's benefit is either a nondecreasing annuity, other than a straight life annuity, payable for a period of not less than the life of the member, or, in the case of a qualified preretirement survivor annuity, the life of the surviving spouse, or an annuity that decreases during the life of the member merely because of the death of the survivor annuitant, but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant, or the cessation or reduction of Social Security supplements or qualified disability payments, as defined in § 401(a)(11), Internal Revenue Code.

a. Limitation Years Beginning Before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the

annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

1. The applicable interest rate and applicable mortality table, or other tabular factor, as defined in § 417(e)(3), Internal Revenue Code, for adjusting benefits in the same form; or

2. Five percent interest rate assumption and the applicable mortality table as defined in § 417(e)(3), Internal Revenue Code.

b. Limitation Years Beginning On or After July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

1. The annual amount of the straight life annuity, if any, payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; or

2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent interest rate assumption and the applicable mortality table as described in Treasury Regulation § 1.417(e)-1(d)(2), or the applicable mortality table as required by law, for that annuity starting date.

(2) BENEFIT FORMS SUBJECT TO § 417(e)(3) INTERNAL REVENUE CODE. The straight life annuity that is actuarially equivalent to the member’s form of benefit shall be determined

under this subdivision if the form of the member's benefit is other than a benefit form described in subdivision (1). In this case, the actuarially equivalent straight life annuity shall be determined as follows:

a. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

1. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the assumptions, as defined in subdivision (3) of Section 45-37-123.01;

2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent interest rate assumption and the applicable mortality table for the distribution under Treasury Regulation § 1.417(e)-1(d)(2), or the applicable mortality table as required by law; or

3. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed for the distribution under Treasury Regulation § 1.417(e)-1(d)(3), or the applicable interest rate as required by law, and the applicable mortality table for the distribution under Treasury Regulation § 1.417(e)-1(d)(2), or

the applicable mortality table as required by law, divided by 1.05.

b. Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

1. The applicable interest rate and applicable mortality table, or other tabular factor, as defined in § 417(e)(3), Internal Revenue Code, for adjusting benefits in the same form; or

2. A five and one-half percent interest rate assumption and the applicable mortality table for the distribution under Treasury Regulation § 1.417(e)-1(d)(2), or the applicable mortality table as required by law.

(d) For purposes of Section 45-37-123.130 and subsection (b), no adjustments under § 415(d), Internal Revenue Code, shall be taken into account before the limitation year for which such adjustment first takes effect.

(e) For purposes of Section 45-37-123.130, no actuarial adjustment to the benefit is required for the value of a qualified joint and survivor annuity, ancillary benefits that are not directly related to retirement benefits, such as a qualified disability benefit, preretirement death benefits, and postretirement medical benefits, as set forth in § 415(b),

Internal Revenue Code, and Treasury Regulation § 1.415(b)-1(c)(4)(1)(B), and the value of postretirement cost-of-living increases made in accordance with § 415(d), Internal Revenue Code, and Treasury Regulation § 1.415-3(c)(2)(iii). The annual benefit does not include any benefits attributable to employee contributions or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the county."

"§45-37-123.150

(a) The pension board shall have the right at any time to amend the plan, subject to the limitations of this section. Any amendment shall be consistent with the act, any other legislation relating to the system, or consistent with other authority granted to the pension board. Additionally, in the event that the Legislature amends the act or makes other statutory changes that impact the terms of the plan, the pension board ~~shall~~, subject to applicable law, may cause the plan to be amended as necessary to reflect ~~such~~ the legislation. ~~The pension board, and each of its individual members, when acting in its or their official capacity, shall be immune from civil liability against the claims of any individual, member, or other entity of any nature whatsoever arising out of the pension board's or its members' administration of the plan or related to its decisions or actions, which decisions or actions were made in good faith, without malice, and predicated upon information that was then available to the pension board.~~

~~(b) As determined by the pension board or by~~

~~legislative act, any change in the pension rate may apply to all pensions payable under the plan, including pensions granted prior to the effective date of the change in the pension rate. This subsection shall apply whether such change results in the pension benefit being increased or decreased. Accordingly, any increase or decrease in the pension rate may be applicable not only to persons who have not yet begun to receive their pension benefits, but also to persons who have begun receiving their pensions benefits. A change in the pension rate means any modification to the definition of basic average salary or other change to the formula for determining the amount of a pension benefit.~~

~~(c)~~ (b) Any amendment which affects the rights, duties, or responsibilities of the trustee may only be made with the trustee's written consent. Any such amendment shall become effective as provided therein upon its execution. The trustee shall not be required to execute any such amendment unless the amendment affects the duties of the trustee hereunder.

~~(d)~~ (c) Except as otherwise specifically provided for herein, no amendment to the plan shall be effective if it authorizes or permits any part of the trust fund, other than such part as is required to pay taxes and administration expenses, to be used for or diverted to any purpose other than for the exclusive benefit of the members or their designated beneficiaries or estates."

"§45-37-123.191

The plan shall not be deemed to constitute a contract of employment between the county and any member or to be a

consideration or an inducement for the employment of any member or employee. Nothing contained in the plan shall be deemed to give any member or employee the right to be retained in the service of the county or to interfere with the right of the county to discharge any member or employee at any time regardless of the effect which such discharge shall have upon the employee as a member of this plan. ~~No provisions herein shall be construed to bestow upon any member or any other person any vested right to benefits, return of employee contributions, or any other valuable interest hereunder. No implied contract for benefits shall be held to arise hereunder, either before or after retirement.~~ A member's right to a pension benefit shall vest and become nonforfeitable pursuant to Section 45-37-123.100(c)(2)(b). Membership in the system is contractual in nature and vested pension benefits shall not be forfeited, diminished, or impaired."

"§45-37-123.194

(a) Except as provided below and otherwise specifically required by law, it shall be impossible by operation of the plan or of the trust agreement, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement, or by any other means, for any part of the corpus or income of any trust fund maintained pursuant to the plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of members, former members, or their designated beneficiaries; and no funds of the system, whether in cash, securities, or otherwise, nor any income or yield

thereof, shall be subject to or exacted on account of, any tax; and no retirement or disability allowance or right to return of contributions, or other benefits payable as set forth in the plan, shall be assignable or be subject to execution, levy, attachment, garnishment, or other legal process. Accordingly, the plan shall not recognize any domestic relations order attempting to provide a member's benefits, or any portion thereof, to an alternate payee.

(b) In the event that the county shall make an excessive contribution under a mistake of fact, the pension board, or its agent, may demand repayment of such excessive contribution, and the trustees shall return such amount, adjusted for any income or loss in value so long as such amount is returned within one year of the date of the mistaken contribution. Notwithstanding the immediately preceding sentence, any return shall be limited to an amount that, in the judgment of the pension board, would not cause the system to become actuarially unsound.

(c) In the event that the plan makes an overpayment to a member ~~or~~, designated beneficiary, or other beneficiary for any reason, such as, miscalculation of a pension benefit or payment prior to the time that the member ~~or~~, designated beneficiary, or other beneficiary was entitled to payment, the pension board may elect to offset future pension ~~payments~~ benefits until ~~such~~ the overpayment has been recouped by the trust fund to the extent allowed by law.

~~(d) Subject to applicable law, no person shall be entitled to receive a deferred pension if his or her~~

~~separation from the service from the county is due to his or her misappropriation of funds or property of the county, or to moral delinquency on his or her part.~~

~~(e) Subject to applicable law, if the board finds that a member's service is terminated by resignation or discharge, or otherwise, as a consequence of such member's dishonesty in handling the monies or property of the county or any department thereof, the member shall not be entitled to any retirement or disability benefit, but he or she shall upon application therefor be paid a refund of the full amount of his or her employee contributions, less any benefits previously paid to him or her.~~

~~(f)~~ (d) Subject to applicable law, a member's or designated beneficiary's benefit may be offset for obligations to the county, the pension board, or the trust fund."

"§45-37-123.195

Any payment to any member, the member's legal representative, designated beneficiary, or to any guardian or committee appointed for such member or designated beneficiary in accordance with the plan, to the extent thereof, shall be in full satisfaction of all claims hereunder against the trustee, the county, and the pension board each of whom may require such member, legal representative, designated beneficiary, guardian, or committee, as a condition precedent to such payment, to execute a receipt and release thereof or an indemnification agreement or both in such form as shall be determined by the pension board."

Section 2. Sections 45-37-123.31 and 45-37-123.110 are

added to the Code of Alabama 1975, to read as follows:

§45-37-123.31

The system, the pension board and each of its individual members, and employees of the system, when acting within the scope of its or their official capacity, shall be immune from civil liability and not subject to legal claims for damages by any individual, member, designated beneficiary or other beneficiary, or entity, directly or by way of contribution, for any decision, act, or omission resulting in damage or injury unless the decision, act, or omission was caused by willful and wanton conduct, grossly negligent conduct, gross malfeasance, or gross misfeasance. For purposes of this section, "official capacity" means any decision, act, or omission taken by the pension board or its individual members to further the purpose for which the system is established.

§45-37-123.110

(a) To the extent allowed by law, in the event that all or any portion of the benefit payable to a missing participant or missing beneficiary shall remain unpaid either: (1) with respect to a nonvested member, for more than five years following the member's separation from service of the county; or (2) with respect to a vested member, for more than five years following the applicable date, as may be set forth in any administrative policies established pursuant to Section 45-37-123.22(b)(5), the amount of the missing participant's or missing beneficiary's benefit (as applicable) or employee contributions, or both, in the sole discretion of the pension

board, may be forfeited, subject to reinstatement as provided in subsection (b). During any period of forfeiture, the missing participant or missing beneficiary shall not be treated as a member under the plan. Prior to the forfeiture of a missing participant's or missing beneficiary's benefit or employee contributions, or both, the system shall attempt to locate the missing participant or missing beneficiary through reasonable search efforts, which efforts shall be determined by the pension board in its sole discretion.

(b) In the event a missing participant or missing beneficiary is located subsequent to the forfeiture of the missing participant's or missing beneficiary's benefit or employee contributions, or both, pursuant to subsection (a), the benefit or employee contributions, or both, shall be restored by the pension board without interest; provided, however, that a benefit or employee contribution lost by reason of escheat under applicable state law is not treated as a forfeiture for purposes of this section nor as an impermissible forfeiture under the Internal Revenue Code. In the event that a nonvested missing participant dies subsequent to a forfeiture of his or her employee contributions pursuant to subsection (a), but before being located pursuant to this subsection, the participant's refund shall be permanently forfeited and there shall be no designated beneficiary or other beneficiary for the refund. In no event shall any forfeiture under the plan result in an increase in the benefit to be paid to any member.

Section 3. Relating to the General Retirement System

for Employees of Jefferson County; to amend Sections 45-37-123.01, 45-37-123.20, 45-37-123.21, 45-37-123.22, 45-37-123.23, 45-37-123.24, 45-37-123.25, 45-37-123.26, 45-37-123.27, 45-37-123.28, 45-37-123.29, 45-37-123.50, 45-37-123.54, 45-37-123.80, 45-37-123.82, 45-37-123.83, 45-37-123.84, 45-37-123.100, 45-37-123.101, 45-37-123.102, 45-37-123.103, 45-37-123.104, 45-37-123.106, 45-37-123.108, 45-37-123.132, 45-37-123.150, 45-37-123.191, 45-37-123.194, and 45-37-123.195, Code of Alabama 1975; to clarify who is a designated beneficiary; to identify the Personnel Board of Jefferson County as the civil service system of Jefferson County; to define missing participants and missing beneficiaries as a participant or beneficiary whose whereabouts are unknown to the system or who is nonresponsive; to clarify categories of membership and benefits; to clarify that all members who are not vested are nonvested; to clarify that a member's benefit becomes partially vested and nonforfeitable upon 10 years of paid service and fully vested and nonforfeitable upon 15 years of paid service; to accurately reflect the method by which the county remits employer and employee contributions to the system; to authorize the pension board to pay any sums reasonably necessary to defray administrative expenses of the plan before remitting employer and employee contributions to the trust fund; to establish additional qualifications and procedures for individuals elected or appointed to serve on the pension board; to provide for electronic forms and notice; to clarify that the election of pension board members number four and

five are supervised by members volunteering to serve as the election board; to clarify that only a beneficiary designated by the member shall constitute a beneficiary under the plan; to authorize the pension board to adopt rules and regulations for the administration of any benefit provided by the plan subject to applicable law; to authorize the pension board to suspend and reinstate benefits to missing participants and missing beneficiaries; to provide the pension board with the authority to authorize the plan to defend and indemnify the pension board and each of its individual members, employees of the system, and the system as a legal entity separate and distinct from the plan from claims, actions, or judgments connected with or arising from decisions, acts, or omissions undertaken within the scope of its or their official capacity in furtherance of the purposes for which the system is established to the extent allowed by applicable law and Section 401(a), Internal Revenue Code; to authorize the pension board to interplead funds into a court of competent jurisdiction when the pension board cannot determine the owner of those funds or for any other reason allowed under applicable law; to clarify that records and data of the system are not public records; to clarify that payment of benefits and administrative expenses from the trust fund is subject to the prohibition against diversion of funds for any purpose other than the exclusive benefit of members; to authorize the pension board to remit certain contributions to a system depository account to be treated as general assets of the system as a legal entity separate and distinct from the plan

and its trust; to authorize the payment of benefits and expenses of administration from the general assets of the system as a legal entity separate and distinct from the plan and its trust; to clarify that three affirmative votes are required for the pension board to act; to provide that in the event a mandatory member subsequently occupies a position not subject to the Personnel Board of Jefferson County, the member shall remain a mandatory and contributing member of the system; to clarify that an employee eligible for optional membership must exercise the option in writing; to remove provisions prohibiting an active member from remaining a participant in the plan after the member elects to participate in another plan; to remove provisions related to the conversion of unpaid membership time to paid membership time; to remove certain provisions relating to the forfeiture of certain pension benefits and employee contributions; to clarify when a reemployed member begins to accrue benefits; to clarify that a member may terminate employee contributions upon reaching 30 years of paid service regardless of whether the member has accumulated sufficient service to entitle the member to the maximum benefit available under the plan; to provide that the hourly equivalent of one-half month of work is sufficient to entitle a member to one month of service; to clarify that the payment of benefits does not commence until the member or the member's designated beneficiary executes all necessary forms required by the pension board; to provide that disability benefits are only authorized for permanent disabilities arising on or before separation from employment

with the county; to clarify certain conditions for eligibility to receive a disability benefit; to clarify a disabled member's membership status upon reemployment by Jefferson County; to provide that procedures for proving a common law marriage are applicable only to a marriage entered into before January 1, 2017; to remove certain provisions terminating a member's right to a benefit; to remove certain provisions disqualifying a member from receiving benefits; to provide that vested pension benefits are nonforfeitable; to add Section 45-37-123.31 to the Code of Alabama 1975, to clarify the scope of immunity afforded to the system, the pension board, and the individual members of the pension board, and the employees of the system, when acting in its or their official capacity; to add Section 45-37-123.110 to the Code of Alabama 1975, to allow the pension board to adopt procedures for the forfeiture and restoration of benefits and employee contributions for missing participants and missing beneficiaries whose whereabouts are unknown to the system or who are nonresponsive; to provide that, during any period of forfeiture, a missing participant or missing beneficiary shall not be treated as a member under the plan; to make technical corrections; to repeal Sections 45-37-123.52 and 45-37-123.53, providing for termination of eligibility and the conversion of unpaid membership time to paid membership time; and to provide for an effective date.

Section 4. This act shall become effective on June 1, 2024.