

HB190 ENGROSSED



1 HB190
2 XCPSZZE-2
3 By Representative Carns (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 20-Feb-24



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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



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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



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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

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



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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

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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:



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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



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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 §



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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



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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).



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(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



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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,



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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.



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(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

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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

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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(e)~~ 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



533 system for employees of the county.

534 ~~(38)~~ (44) PLAN or SYSTEM. The General Retirement System
535 for Employees of Jefferson County, which plan or system may
536 sue or be sued, and in such name all of its business shall be
537 transacted.

538 ~~(39)~~ (45) PLAN YEAR. The plan's accounting year of 12
539 months commencing on January 1 of each year and ending the
540 following December 31.

541 ~~(40)~~ (46) POSTRETIREMENT JOINT SURVIVORSHIP PENSION. The
542 benefit described in Section 45-37-123.101.

543 ~~(41)~~ (47) PRERETIREMENT JOINT SURVIVORSHIP PENSION. The
544 benefit described in Section 45-37-123.103.

545 ~~(42)~~ (48) PREVIOUS RETIREMENT SYSTEMS. The retirement
546 systems established by Acts 1953, No. 551, 1953 Regular
547 Session (Acts 1953, p. 766), as amended, the Employees'
548 Retirement System of Jefferson County, and by Acts 1961, No.
549 843, 1961 Regular Session (Acts 1961, p. 1250), as amended,
550 the Employees General Retirement System of Jefferson County.

551 ~~(43)~~ (49) QUALIFIED MILITARY SERVICE. Except as
552 otherwise subsequently provided under § 414(u), Internal
553 Revenue Code, the performance of duty, on a voluntary or
554 involuntary basis, in a uniformed service under competent
555 authority, and includes active duty, active duty for training,
556 initial active duty for training, inactive duty training,
557 full-time national guard duty, a period for which ~~a person~~ an
558 individual is absent from a position of employment for the
559 purpose of an examination to determine the fitness of the
560 ~~person~~ individual to perform any ~~such~~ duty, and a period for



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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

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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



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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



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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~~ and nonforfeitable upon any of the following events:

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

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

~~b.c.~~ 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



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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,



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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.

~~(e)~~ (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



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

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

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

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

798 ~~(g)~~ (h) Salary and expenses. ~~The~~ Subject to Section
799 45-37-123.194, the members of the pension board shall serve
800 without pay, but shall be reimbursed for expenses actually
801 paid or incurred in the discharge of their official duties,
802 and shall suffer no loss of salary or wages, if employed by
803 the county, through service on the board."

804 "§45-37-123.22

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



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

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

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

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

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

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(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



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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,



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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.



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(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



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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

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981 once each calendar year."

982 "§45-37-123.24

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

999 "§45-37-123.25

1000 The county, the ~~Jefferson County~~ Personnel Board of
1001 Jefferson County, or the county's agent, as applicable, shall
1002 supply full and timely information, including, but not limited
1003 to, all payroll, service records, and personal history of
1004 members, to the pension board as the pension board may require
1005 in order to perform its duties hereunder. The pension board
1006 may rely upon such information as accurate and shall have no
1007 duty or responsibility to verify such information."

1008 "§45-37-123.26



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1009 ~~All~~Subject to Section 45-37-123.194, all payment of
1010 benefits, expenses of administration, and any other expenses
1011 arising hereunder, may be paid by the pension board out of the
1012 trust fund, unless otherwise paid by the county or from the
1013 general assets of the system as a legal entity separate and
1014 distinct from the plan and its trust. Such expenses shall
1015 include any expenses incident to the functioning of the
1016 pension board, or any ~~person or persons~~ individual retained or
1017 appointed by any fiduciary incident to the exercise of their
1018 duties under the plan, including, but not limited to, fees of
1019 accountants, counsel, investment managers, and other
1020 specialists and their agents, and other costs of administering
1021 the plan. Until paid, the expenses shall constitute a
1022 liability of the system."

1023 "§45-37-123.27

1024 Three members of the pension board shall constitute a
1025 quorum for the transaction of all business. Except where there
1026 has been an allocation and delegation of administrative
1027 authority pursuant to Section 45-37-123.24, three affirmative
1028 votes shall be necessary for a decision by the pension board."

1029 "§45-37-123.28

1030 (a) Claims for benefits under the plan shall be filed
1031 in writing with the executive director on forms which may
1032 include, but are not limited to, electronic forms provided by
1033 the pension board and filed in accordance with procedures
1034 established by the pension board or the executive director, or
1035 both. The procedure and documents to be produced by a member
1036 or designated beneficiary may differ depending on the type of



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1037 benefit claim being made.

1038 (b) The pension board may allow a properly designated
1039 power of attorney to act on behalf of a member or designated
1040 beneficiary so long as the act is authorized under the terms
1041 of the power of attorney documentation."

1042 "§45-37-123.29

1043 Any employee, former employee, or designated
1044 beneficiary of either, who has been denied a benefit by a
1045 decision of the pension board pursuant to a claim made under
1046 Section 45-37-123.28 shall be entitled to request the pension
1047 board to give further consideration to a claim by filing with
1048 the pension board a written request for a hearing. Such
1049 request shall be filed with the pension board no later than 60
1050 days after receipt of the written notification of denial. The
1051 pension board shall then conduct a hearing as soon as
1052 administratively feasible. The hearing shall typically be held
1053 at the pension board's regular meeting. A final decision as to
1054 the claim shall be made by the pension board as soon as
1055 administratively feasible after receipt of the appeal and the
1056 claimant shall be notified in writing of the decision. In the
1057 event of a denial of a disability-~~retirement~~ benefit claim, a
1058 new disability-~~retirement~~ benefit claim may not be made for at
1059 least six months from the date of the last appeal denial,
1060 unless otherwise determined in the discretion of the pension
1061 board or the executive director."

1062 "§45-37-123.50

1063 Any eligible employee may become a member of the system
1064 as described below. Notwithstanding the following, any-~~person~~



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1065 individual who was a member of the system prior to the
1066 effective date of the amendment and restatement of the plan
1067 shall continue to be a member of the system.

1068 (1) MANDATORY MEMBERSHIP.

1069 ~~a. Eligible Employees Subject to the Civil Service~~
1070 ~~System.~~ Except as otherwise provided in subdivision (2), every
1071 eligible employee who occupies a full-time position subject to
1072 the ~~civil service system applicable to~~ Personnel Board of
1073 Jefferson County shall become a member of the system and shall
1074 make employee contributions to the system in accordance with
1075 Section 45-37-123.82. If an employee subsequently occupies a
1076 position not subject to the Personnel Board of Jefferson
1077 County, the employee shall remain a mandatory and contributing
1078 member of the system, except as otherwise provided herein.

1079 ~~b. Hospital Employees. Every eligible hospital~~
1080 ~~employee, as defined in subdivision (21) of Section~~
1081 ~~45-37-123.01, shall become a member of the system and shall~~
1082 ~~make employee contributions to the system in accordance with~~
1083 ~~Section 45-37-123.82 if his or her relation to the hospital~~
1084 ~~corporation is such that if he or she had the same relation to~~
1085 ~~Jefferson County as he or she has to the hospital corporation,~~
1086 ~~his or her membership in the system would be mandatory.~~

1087 (2) OPTIONAL MEMBERSHIP. The following eligible
1088 employees may exercise the option to become a member of the
1089 system by filing with the ~~secretary of the pension board~~
1090 executive director an executed declaration stating that he or
1091 she elects to become a member of the system, subject to all of
1092 the rights and liabilities of members of the system. The

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1093 declaration shall be in such form and time as the pension
1094 board may prescribe. Once the declaration is accepted by the
1095 pension board or a representative of the pension board, such
1096 eligible employee then shall become a member of the system and
1097 shall begin to make employee contributions to the system in
1098 accordance with Section 45-37-123.82. The election to become
1099 or not become a member, once exercised, shall be irrevocable.

1100 a. Eligible Employees Not Subject to the ~~Civil Service~~
1101 ~~System~~ Personnel Board of Jefferson County. Any eligible
1102 employee who occupies a ~~full~~ full-time or part-time position
1103 not subject to the ~~civil service system applicable to~~
1104 Personnel Board of Jefferson County shall not become a member
1105 of the system unless he or she exercises the written option to
1106 become a member.

1107 ~~b. Hospital Employees. Any eligible hospital employee,~~
1108 ~~as defined in subdivision (21) of Section 45-37-123.01, shall~~
1109 ~~have the option of becoming a member of the system if such~~
1110 ~~eligible hospital employee's relation to the hospital~~
1111 ~~corporation is such that if he or she had the same relation to~~
1112 ~~Jefferson County as he or she has to the hospital corporation,~~
1113 ~~he or she would have the option of becoming a member of the~~
1114 ~~system.~~

1115 ~~e.~~ b. Eligible County Office Employees, ~~Eligible Circuit~~
1116 ~~Solicitors, Eligible Deputy Solicitors,~~ and Eligible Part-Time
1117 Employees. Notwithstanding the mandatory membership provisions
1118 in subdivision (1), any eligible county office employee, ~~any~~
1119 ~~eligible circuit solicitor, any eligible deputy solicitor,~~ as
1120 ~~each is~~ defined in Section 45-37-123.01, and any part-time



1121 employee who occupies a position subject to the ~~civil service~~
1122 ~~system applicable to~~ Personnel Board of Jefferson County shall
1123 not become a member of the system unless he or she exercises
1124 the written option to become a member."

1125 "§45-37-123.54

1126 If a member of the system severs employment with the
1127 county or his or her term in an elected or appointed job or
1128 position terminates, and ~~such the~~ member thereafter returns to
1129 the service of the county, he or she shall become a member of
1130 the system to the extent he or she meets the definition of an
1131 eligible employee, subject to the following rules:

1132 (1) RETIRED MEMBER RECEIVING A PENSION BENEFIT. If a
1133 member receiving his or her pension benefit is reemployed by
1134 the county two or more years after severing employment, the
1135 pension benefit of the member shall not be reduced. If a
1136 member is receiving his or her pension benefit and is
1137 reemployed by the county less than two years after severing
1138 employment, any amount otherwise payable by the system to the
1139 member on account of the member's retirement shall be reduced
1140 by the amount, if any, paid or payable to the member by the
1141 county on account of or by reason of the reemployment of the
1142 member. At the earlier of the time the member thereafter
1143 severs employment with the county or after two or more years
1144 ~~of reemployment by the county~~ after the date on which the
1145 member retired, ~~such the~~ member's pension benefit shall return
1146 to the amount it was prior to the member's reemployment.
1147 However, notwithstanding subdivisions (3) and (4), such a
1148 member covered by this subdivision shall not make any

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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



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1177 of such severance from employment, he or she shall resume
1178 making employee contributions and begin to accrue benefits
1179 again upon the date of reemployment. The member's benefit
1180 shall be calculated by aggregating the member's credited
1181 service during all periods of employment.

1182 ~~-(4)~~ (5) MEMBER RECEIVED A REFUND ~~OR FORFEITED PENSION~~
1183 ~~BENEFIT~~. Except as set forth in subdivision (1), if a member
1184 who severed employment with the county and received a refund
1185 of his or her employee contributions to the system as provided
1186 in Section 45-37-123.104, ~~or does not receive a refund within~~
1187 ~~five years after severing from employment~~, is reemployed by
1188 the county, he or she shall rejoin the system in accordance
1189 with Sections 45-37-123.50 and 45-37-123.82 and begin to
1190 accrue benefits again upon the date of reemployment. In
1191 calculating the member's benefit, only credited service
1192 rendered after the member is reemployed shall be included."

1193 "§45-37-123.80

1194 (a) Employer contributions. Each payroll period, an
1195 amount equal to the total of all members' employee
1196 contributions that is deducted from the members' compensation
1197 pursuant to Section 45-37-123.82 shall be contributed by the
1198 county and shall be paid ~~into~~ to the ~~trust fund~~ system. The
1199 system shall remit the contributions to the trust fund as soon
1200 as practicable, however the pension board may first pay any
1201 sums reasonably necessary to defray administrative expenses of
1202 the plan as determined in the sole discretion of the pension
1203 board subject to Section 45-37-123.194.

1204 (b) Employer contributions upon reinstatement from



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1205 qualified military service. If any member leaves the service
1206 of the county for the purposes of performing qualified
1207 military service and shall have been reinstated to the service
1208 of the county within 90 days after such member's separation
1209 from such qualified military service, then the county shall
1210 promptly pay ~~into~~ to the ~~trust fund~~ system an amount equal to
1211 twice the employee contribution which the employee would have
1212 made if he or she had not been absent on such leave, and if
1213 his or her compensation had continued to be the same as he or
1214 she was earning at the time of the commencement of the leave;
1215 provided, however, that no part of such payment by the county
1216 shall be refundable to the employee pursuant to Section
1217 45-37-123.104."

1218 "§45-37-123.82

1219 (a) Employee contributions generally. As a condition of
1220 employment and of accruing benefits under the plan, each
1221 member shall contribute six percent of such member's
1222 compensation to the plan. The employee contributions shall be
1223 after tax, or if approved by the pension board such employee
1224 contributions shall be pre-tax and treated as "picked-up" and
1225 contributed by the county to the plan pursuant to ~~Section~~ §
1226 414(h)(2) of the Internal Revenue Code. The county shall
1227 process such employee contributions each payroll period and
1228 the aggregate amount shall be deposited in the ~~trust fund~~
1229 system. Employee contributions shall begin on the member's
1230 first paycheck after a member becomes eligible for membership
1231 in the system as provided for in Section 45-37-123.50. In the
1232 event that the county fails to withhold any employee



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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



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1261 Except as otherwise specifically stated herein, the
1262 rules below shall apply in determining length of service for
1263 all purposes under the plan.

1264 (1) In no case may more than one year of service be
1265 credited for service in one calendar year.

1266 (2) A member shall work over one-half of a month,
1267 including all calendar days or the hourly equivalent thereof,
1268 in order to earn one month of service.

1269 (3) Except as otherwise specifically stated herein or
1270 required by federal law, a member shall not be allowed service
1271 credit for any period of more than one-half of a month during
1272 which such member is absent without pay.

1273 (4) A member shall receive service credit for any and
1274 all paid leaves of absence, including a paid Family and
1275 Medical Leave Act leave, regardless of the length of the leave
1276 and regardless of the performance of any services. For
1277 ~~member's~~ members terminating employment between August 1,
1278 1993, and January 31, 2010, up to three months of service
1279 credit was granted to members on unpaid Family and Medical
1280 Leave Act leaves.

1281 (5) Years of paid membership time are used in computing
1282 benefits under the plan, as are months of paid membership
1283 time. Months shall be converted into a fraction of a year as
1284 follows:

1285	1 month	.0833
1286	2 months	.1667
1287	3 months	.2500



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1288 4 months .3333

1289 5 months .4167

1290 6 months .5000

1291 7 months .5833

1292 8 months .6667

1293 9 months .7500

1294 10 months .8333

1295 11 months .9167

1296 12 months 1.0000

1297 (6) The pension board may disregard a fractional part
1298 of a year in computing paid membership time or unpaid
1299 membership time that is less than one-twelfth of a year.

1300 (7) Notwithstanding any provision of the plan to the
1301 contrary, effective December 12, 1994, contributions,
1302 benefits, and service shall be provided in accordance with §
1303 414(u), Internal Revenue Code, relating to military leave.

1304 (8) Service before and after reemployment by the county
1305 shall also be calculated in accordance with Section
1306 45-37-123.54."

1307 "§45-37-123.100

1308 (a) Superannuation retirement benefit.

1309 (1) ELIGIBILITY. A member shall be eligible for a
1310 superannuation retirement benefit if the member is not
1311 receiving a disability benefit and:

1312 a. The member has 30 or more years of paid membership



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1313 time, regardless of age;

1314 b. The member has 10 or more years of paid membership
1315 time and has attained the age of 60; or

1316 c. The member has 30 years of service, 20 years of
1317 which are paid membership time, and has attained the age of
1318 55.

1319 (2) CALCULATION OF BENEFIT. If a member meets the
1320 foregoing eligibility criteria, then the member shall be
1321 eligible to retire and receive a monthly benefit for the
1322 remainder of his or her life to be determined by the following
1323 formula:

1324 a. Two and one-half percent multiplied by the basic
1325 average salary multiplied by the number of years of paid
1326 membership time; plus

1327 b. Five-eighths of one percent multiplied by the basic
1328 average salary multiplied by the number of years of unpaid
1329 membership time, if applicable.

1330 (3) SEVENTY-FIVE PERCENT LIMITATION. Notwithstanding
1331 the foregoing, no member shall receive any ~~retirement~~ pension
1332 benefit in excess of 75 percent of his or her basic average
1333 salary. This 75 percent limitation shall only be applied at
1334 the time that the beginning ~~retirement~~ pension benefit is
1335 determined and shall not limit increases granted to retired
1336 members subsequent to their retirement. Additionally, this 75
1337 percent limitation shall be applied before applying any
1338 actuarial adjustments to reflect an election of a joint
1339 survivorship pension.

1340 (4) SECTION 401(a)(17), INTERNAL REVENUE CODE,



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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~~ and Internal Revenue Code ~~and~~ 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.



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1369 (1) REGULAR EARLY RETIREMENT. A member may elect, but
1370 is not required, to retire prior to age 60 if the member has
1371 completed 30 or more years of service, 10 of which, but not
1372 the total 30, are paid membership time. In the event that a
1373 member makes such an election, such member shall be entitled
1374 to receive an early retirement benefit equal to the member's
1375 benefit that would be payable pursuant to subsection (a), but
1376 with an actuarial equivalent reduction for each year less than
1377 60 years of age, as follows:

1378	Age of Member on	Reduced Retirement Benefit on Account of
1379	Last Birthday	Retirement before Age 60 Expressed as a
1380	Preceding	Percentage of the Superannuation
1381	Retirement	Retirement Benefit under subsection (a)
1382	59	93%
1383	58	87%
1384	57	82%
1385	56	77%
1386	55	72%
1387	54	68%
1388	53	64%
1389	52	60%
1390	51	57%
1391	50	54%
1392	49	51%



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1393 48 48%

1394 (2) TWENTY-FIVE YEAR EARLY RETIREMENT BENEFIT. On and
1395 after April 24, 2003, a member with at least 25 years of paid
1396 membership time, but less than 30 years of paid membership
1397 time, who is not eligible for a superannuation retirement
1398 benefit may elect to retire early, but is not required to do
1399 so. In the event that a member makes such an election, such
1400 member shall be entitled to receive a 25-year early retirement
1401 benefit equal to the member's benefit that would be payable
1402 under superannuation retirement benefit pursuant to subsection
1403 (a), but with an actuarial equivalent reduction of seven
1404 percent for each whole year less than 30 years. For purposes
1405 of the seven percent reduction, months are not counted.

1406 (3) ELIGIBILITY FOR POSTRETIREMENT JOINT SURVIVORSHIP
1407 PENSION. A member that is entitled to an early retirement
1408 benefit shall be entitled to instead elect a postretirement
1409 joint survivorship pension, as provided for under Section
1410 45-37-123.101.

1411 (4) DEATH. If a member dies while receiving payment of
1412 an early retirement benefit, the return of any remaining
1413 portion of his or her employee contributions shall be governed
1414 by Section ~~45-37-123.104(5)d~~ 45-37-123.104(4)d. If the member
1415 has received payments in an amount at least equal to the
1416 amount of employee contributions he or she made to the plan at
1417 the time of death, then no further payments shall be made upon
1418 the member's death.

1419 (c) Deferred retirement benefits.

1420 (1) GENERAL RULES FOR DEFERRED RETIREMENT BENEFITS.



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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



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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



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1477 accordance with the formula set forth in subsection (a),
1478 superannuation retirement benefit, the payment of which shall
1479 commence upon his or her retirement if he or she has attained
1480 the age of 55; if the member has not attained the age of 55,
1481 payment shall be delayed until the member's attainment of age
1482 55.

1483 b. 18/60 Provisions. Subject to the general eligibility
1484 requirements stated in subdivision (1) and to this paragraph,
1485 a member who is not entitled to voluntarily retire pursuant to
1486 subsection (a), superannuation retirement benefit, or
1487 subdivision (1) of subsection (b), regular early retirement
1488 benefit, but who is involuntarily retired after accumulating
1489 18 years of service with the county, at least 10 of which is
1490 paid membership time, shall be entitled to receive a monthly
1491 benefit computed in accordance with the formula set forth in
1492 subsection (a), superannuation retirement benefit, the payment
1493 of which shall commence as set forth below.

1494 1. Member contributions. In order to receive a benefit
1495 under paragraph b., a member shall contribute to the plan from
1496 the date of the member's involuntary retirement to the date
1497 that the benefit commences, by the last day of each calendar
1498 month: (i) the amount of employee contributions that he or she
1499 would have made if he or she had continued to be employed by
1500 the county at the same salary as he or she was receiving at
1501 the time of his or her termination of employment, plus (ii)
1502 the amount which the county would have contributed to the plan
1503 on the member's behalf if he or she had continued to be
1504 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.



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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



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1589 amount that he or she was receiving prior to the designated
1590 beneficiary's death. The amount of the benefit payment shall
1591 not change.

1592 (b) Timing of election. Except as provided in the
1593 immediately following sentence, in the event that a member
1594 desires to elect a postretirement joint survivorship pension,
1595 he or she shall do so in writing, on a form provided by the
1596 pension board, no later than the member's last day of
1597 employment. In the event that a member previously elected a
1598 deferred retirement benefit and desires to elect a
1599 postretirement joint survivorship pension, he or she shall do
1600 so in writing, on a form provided by the pension board, no
1601 later than the day before the member's sixtieth birthday.

1602 (c) Timing of payments. Payment to the member commences
1603 on the day after the member terminates employment and shall
1604 continue to be paid each month thereafter until the member's
1605 death. If the member's designated beneficiary survives after
1606 the death of the member, the postretirement joint survivorship
1607 pension payments shall be made monthly to the designated
1608 beneficiary, beginning on the first day of the month following
1609 the member's death, ~~assuming~~ provided that the pension board
1610 is notified of the death in a timely manner and the designated
1611 beneficiary has completed all forms required by the pension
1612 board. Payments shall terminate with the first monthly payment
1613 preceding the second to die of the member and the designated
1614 beneficiary. In the event that a refund is to be paid pursuant
1615 to Section 45-37-123.104(4)c., such payment shall be made as
1616 soon as administratively feasible following the



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1617 member's/designated beneficiary's deaths.

1618 (d) Cost of postretirement joint survivorship pension.

1619 To the extent that a member elects payment of a postretirement
1620 joint survivorship pension for his or her designated
1621 beneficiary, the benefit otherwise payable to the member shall
1622 be actuarially reduced to reflect the election of a
1623 postretirement joint survivorship pension.

1624 (e) Changes in election. At any time before termination
1625 of employment, the member may cancel his or her election to
1626 have payment in such form by completing a form provided by the
1627 pension board. Except as otherwise stated herein, the member's
1628 election of a postretirement joint survivorship pension shall
1629 be irrevocable once the member terminates employment.

1630 (1) DEATH. a. Death of Member Prior to Actual
1631 Retirement. In the event that a member dies prior to his or
1632 her actual retirement, any postretirement joint survivorship
1633 pension election he or she made shall be deemed void.

1634 b. Death of Designated Beneficiary Before Payments
1635 Commence. In the event that a member elects a postretirement
1636 joint survivorship pension and his or her designated
1637 beneficiary dies before payments commence, then upon the
1638 designated beneficiary's death, the member's election of the
1639 postretirement joint survivorship pension shall be
1640 automatically canceled, and the member's right to receive
1641 payments in accordance with subsections (a) to (c), inclusive,
1642 of Section 45-37-123.100, as applicable, shall be reinstated.

1643 c. Death of Both Member and Designated
1644 Beneficiary-Refund. Except as provided in the immediately



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1645 following sentence, in the event that a payment begins to the
1646 member, no refund of employee contributions shall be paid
1647 thereafter. Notwithstanding the foregoing sentence, in the
1648 event that the member and his or her designated beneficiary
1649 die, a refund shall be made in accordance with Section
1650 45-37-123.104(4)c.

1651 (2) DIVORCE. In the event that a married member names
1652 his or her spouse as designated beneficiary, a subsequent
1653 divorce of the member and the designated beneficiary shall not
1654 cancel an election of a postretirement joint survivorship
1655 pension. However, in the event that a member or designated
1656 beneficiary presents to the pension board what the pension
1657 board believes to be a valid divorce decree, settlement
1658 agreement, or domestic relations order, collectively, a DRO,
1659 that provides for a waiver or forfeiture of the postretirement
1660 joint survivorship pension, then such waiver or forfeiture
1661 shall be recognized by the pension board, and, accordingly,
1662 the postretirement joint survivorship pension shall be deemed
1663 void, and the member's monthly pension benefit shall
1664 thereafter pop-up to the amount that would have been payable
1665 to the member under subsections (a) to (c) of Section
1666 45-37-123.100, as applicable, as if the member had never
1667 elected a postretirement joint survivorship pension. Such
1668 pop-up shall occur in the month following the pension board's
1669 receipt and approval of the DRO. The member shall not be
1670 allowed to elect another joint survivorship pension. See also
1671 Section 45-37-123.194(a) for additional rules relating to
1672 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 ~~(e)~~ (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



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1701 monthly disability~~retirement~~ benefit payable in connection
1702 with a non-service connected disability occurring before May
1703 17, 2021, shall be 50 percent of the monthly compensation the
1704 member was receiving at the time he or she experienced a total
1705 and permanent disability.

1706	Number of Whole Years Until	Percentage Reduction of
1707	Eligibility for Superannuation	Superannuation Retirement
1708	Retirement Benefit	Benefit

1709	1	93%
1710	2	87%
1711	3	82%
1712	4	77%
1713	5	72%
1714	6	68%
1715	7	64%
1716	8	60%
1717	9	57%
1718	10	54%
1719	11 or more	50%

1720 b. Any member who, after accumulating 10 years of paid
1721 membership time, experiences a partial and permanent
1722 disability as a result of a non-service connected disability,
1723 shall be entitled to receive a monthly disability benefit
1724 determined in accordance with subdivision (3).



1725 ~~(b)~~ (2) Service connected disability ~~benefits~~ benefit.
1726 Subject to subsection ~~(h)~~ (b), any member who experiences a
1727 total or partial and permanent disability as a result of a
1728 service connected disability shall be entitled to receive a
1729 monthly disability ~~retirement benefits~~ benefit in an amount
1730 equal to 60 percent of the member's monthly compensation that
1731 he or she was receiving at the time he or she experienced a
1732 total and permanent disability. Any member who experiences a
1733 partial and permanent disability as a result of a service
1734 connected disability shall be entitled to receive a monthly
1735 disability benefit determined in accordance with subdivision
1736 (3).

1737 ~~(e)~~ (3) Partial disability benefits. In the event that a
1738 member experiences a partial and permanent disability in
1739 connection with either a non-service connected disability or a
1740 service connected disability, the pension board and its
1741 medical advisor shall determine the percentage of disability
1742 suffered, and the member shall be entitled to the proportion
1743 of the amount which would have been payable if the disability
1744 were a total permanent disability.

1745 (b) Conditions for eligibility.

1746 (1) Disability shall be permanent. To be qualified to
1747 receive a disability benefit, the disability, whether total or
1748 partial, shall be permanent and shall be experienced on or
1749 before a member's separation from employment with the county.
1750 Disability benefits under this subsection shall only continue
1751 for such time as a member continues to experience a permanent
1752 disability, whether total or partial.

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1753 (2) Application and medical examination. Applications
1754 for a disability benefit shall be made in writing on forms
1755 provided by the pension board. All applicants for a disability
1756 benefit shall submit to all medical evaluations and
1757 examinations required by the pension board.

1758 (3) Certification and reexamination. All members
1759 receiving a disability benefit shall certify any information
1760 required by the pension board and shall submit to
1761 reexamination as required by the pension board.

1762 (4) Member's duty to inform. Members receiving a
1763 disability benefit shall notify the pension board in writing
1764 within 30 days after accepting any full-time or part-time
1765 employment, whether or not the employment is in the service of
1766 the county.

1767 ~~(d)~~ (5) Disqualification from receipt of a disability
1768 ~~benefits~~ benefit. No disability ~~retirement benefits~~ benefit
1769 shall be paid if the use of intoxicating liquor, narcotic
1770 drugs, or willful misconduct of the disabled member caused, or
1771 substantially contributed to, the disability or if the cause
1772 of the disability was voluntarily and willfully caused by the
1773 disabled member.

1774 ~~(e)~~ (c) Timing of payment. Payment of disability
1775 retirement benefits provided for by this section shall
1776 commence when the member separates from employment with the
1777 county and ceases to receive his or her compensation subject
1778 to the employee contribution requirements set forth in Section
1779 ~~45-37-123.80~~ 45-37-123.82 and once a determination of
1780 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~~



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~~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



1837 the option to become a member is exercised in accordance with
1838 Section 45-37-123.50(2), the reemployed member shall resume
1839 employee contributions as provided in Section 45-37-123.82 as
1840 a new member of the system with no paid membership time.

1841 ~~(i)~~ (g) Death. If a member dies while receiving payment
1842 of a disability ~~retirement~~ benefit, the return of any
1843 remaining portion of his or her employee contributions shall
1844 be governed by Section ~~45-37-123.104(5)~~ d 45-37-123.104(4)d. If
1845 the member has received payments in an amount at least equal
1846 to the amount of employee contributions he or she made to the
1847 plan at the time of death, then no further payments shall be
1848 made upon the member's death."

1849 "§45-37-123.103

1850 (a) Preretirement death benefits. A vested member's
1851 designated beneficiary is entitled to a preretirement joint
1852 survivorship pension, as described below.

1853 (1) MARRIED MEMBER. If a married, active member dies,
1854 then the designated beneficiary may elect, on a form provided
1855 by the pension board, to be paid in one of the following
1856 forms:

1857 a. One Hundred Percent Preretirement Joint Survivorship
1858 Pension. If such member was eligible for a deferred retirement
1859 benefit at the time of the member's death, then the designated
1860 beneficiary may elect to be paid in the form of a 100 percent
1861 preretirement joint survivorship pension, which is a monthly
1862 annuity paid during the designated beneficiary's lifetime
1863 which is equal to the actuarial equivalent of the benefits
1864 that would have been paid to the member if, instead of dying,



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1865 the member had terminated employment.

1866 b. Refund. The designated beneficiary may elect a
1867 refund of the member's employee contributions in accordance
1868 with Section 45-37-123.104(4)b.

1869 (2) UNMARRIED MEMBER. If an unmarried, active member
1870 dies, then one of the following shall apply:

1871 a. Preretirement Joint Survivorship Pension. If a
1872 member becomes eligible for a deferred retirement benefit,
1873 then the member may elect, on a form provided by the pension
1874 board, a 100 percent preretirement joint survivorship pension,
1875 which is a monthly annuity paid during the designated
1876 beneficiary's lifetime which is equal to the actuarial
1877 equivalent of the benefits that would have been paid to the
1878 member if, instead of dying, the member had terminated
1879 employment. In the event the designated beneficiary dies
1880 before the member or in the event the member marries, any
1881 election of a preretirement joint survivorship pension
1882 automatically shall be revoked and the cost, as described in
1883 subdivision (2) of subsection (c), for the preretirement
1884 coverage shall cease to accumulate on the date of death of the
1885 designated beneficiary or the member's date of marriage, as
1886 applicable.

1887 b. Refund. Regardless of whether the member makes an
1888 election for the designated beneficiary to be paid in the form
1889 of a preretirement joint survivorship pension in accordance
1890 with paragraph a., upon the member's death, the designated
1891 beneficiary can elect to be paid a refund of the member's
1892 employee contributions in accordance with Section

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1893 45-37-123.104(4)b. instead of being paid a preretirement joint
1894 survivorship pension.

1895 (b) Timing of payments. In the event of an election of
1896 a preretirement joint survivorship pension, such payment shall
1897 begin as soon as administratively feasible after the pension
1898 board is notified of the death and the designated
1899 beneficiary's completion of all forms required by the pension
1900 board. In any event, calculation of the amount of the death
1901 benefit shall be made as of the day after the date of death
1902 and any payments that do not occur as of the month following
1903 the date of death shall be included in future payments. In the
1904 event that a refund is to be paid, such payment shall be made
1905 as soon as administratively feasible following the member's
1906 death.

1907 (c) Cost of preretirement joint survivorship pension.

1908 (1) MARRIED MEMBERS.

1909 a. On and After October 1, 1999. On and after October
1910 1, 1999, the 100 percent preretirement joint survivorship
1911 pension shall be provided without additional charge with
1912 respect to a member who is married at the time of his or her
1913 death, and the cost of such benefit shall be borne by the
1914 system; however, in the event that a member designates a
1915 non-spousal beneficiary in accordance with subdivision (d)(1),
1916 the cost of such benefit shall be borne by the member's
1917 designated beneficiary.

1918 b. Prior to October 1, 1999. Prior to October 1, 1999,
1919 a 50 percent preretirement joint survivorship pension was
1920 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.



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1949 (2) ALL OTHER DEATH BENEFITS. Except as provided in
1950 subdivision (1), a member, whether married or not, may
1951 designate any beneficiary, and may do so without the need of
1952 the consent of a spouse for a nonspousal beneficiary
1953 designation.

1954 (3) FORMS. Designation of a beneficiary shall be made
1955 on a form provided by the pension board. A member may at any
1956 time revoke a designation of a beneficiary or change a
1957 designated beneficiary by filing written notice of revocation
1958 or change with the pension board on a form provided by the
1959 pension board. However, in the case of a preretirement joint
1960 survivorship pension, the member's spouse shall again consent
1961 in writing to any change in designated beneficiary unless the
1962 original consent acknowledged that the spouse had the right to
1963 limit consent only to a specific designated beneficiary and
1964 that the spouse voluntarily elected to relinquish such right.
1965 For a spouse's waiver to be valid, the signature of the spouse
1966 executing such form shall be notarized. This consent to waiver
1967 shall become irrevocable upon the death of the member.

1968 (4) FAILURE TO DESIGNATE A BENEFICIARY OR LACK OF
1969 DESIGNATED BENEFICIARY. In the event no valid designation of
1970 beneficiary exists, or if the designated beneficiary is not
1971 alive at the time of the member's death, the death benefit
1972 shall be payable to the member's spouse if there is a spouse,
1973 and if there is no spouse, to the member's estate. If there is
1974 no estate, the death benefit may be interpleaded into a court
1975 of competent jurisdiction. Additionally, if the designated
1976 beneficiary does not predecease the member, but dies prior to

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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



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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



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2033 payable as a result of the death of a member as the pension
2034 board may deem desirable. Proof may include a certified
2035 marriage certificate, certified death certificate of the
2036 member, and affidavits of relatives, members, or other ~~persons~~
2037 individuals knowledgeable of the fact of marriage. ~~If no~~
2038 ~~marriage certificate is available and for~~ For common law
2039 ~~marriage~~ marriages entered into before January 1, 2017, proof
2040 shall include evidence of the existence of the marriage as may
2041 be required by law and also may require indemnification and
2042 hold harmless agreements. The pension board may require that
2043 unclear cases be adjudicated in an appropriate court
2044 proceeding. An unmarried member may be required by the pension
2045 board to sign an affidavit to certify that such member is not
2046 married. The pension board's determination of death benefits
2047 and the right of any ~~person~~ individual to receive payment
2048 shall be conclusive."

2049 "§45-37-123.104

2050 The following provisions generally govern a member's
2051 withdrawal and refund of employee contributions under the
2052 plan. ~~Any member who fails to make application for the amount~~
2053 ~~of his or her employee contributions pursuant to this section~~
2054 ~~within five years after his or her separation from the service~~
2055 ~~of the county, except as otherwise provided herein or~~
2056 ~~otherwise determined by the pension board, shall be deemed to~~
2057 ~~have forfeited and donated such employee contributions to the~~
2058 ~~trust fund pursuant to Section 45-37-123.83. The foregoing~~
2059 ~~five year rule only applies to a member; in the case of a~~
2060 ~~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



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2089 establishing such rules and regulations, the pension board
2090 shall take into consideration the interest the system has
2091 earned on the employee contributions paid ~~into~~ to the ~~trust~~
2092 ~~fund~~ system on account of the member withdrawing such employee
2093 contributions. The pension board may amend such rules and
2094 regulations at any time in its sole discretion.

2095 (3) PARTIAL REFUND OF EMPLOYEE CONTRIBUTIONS AND
2096 CESSATION OF EMPLOYEE CONTRIBUTIONS AND EMPLOYER
2097 CONTRIBUTIONS. When a member attains 30 years of paid
2098 membership time, the member may elect to terminate his or her
2099 employee contributions by filing with the pension board a
2100 statement signed by the member stating that he or she elects
2101 to terminate his or her employee contributions; in such case,
2102 the employer contribution to the ~~trust fund~~ system on the
2103 member's behalf shall cease. As soon as practicable after a
2104 member files such statement, the pension board shall refund to
2105 him or her all employee contributions, without interest, made
2106 by him or her to the ~~trust fund~~ system subsequent to the date
2107 on which the member accumulated sufficient service to entitle
2108 him or her to ~~the maximum benefit that can be provided under~~
2109 ~~the plan~~ terminate his or her employee contributions;
2110 additionally the pension board shall refund to the county any
2111 associated employer contributions, without interest.

2112 (4) REFUNDS UPON DEATH OF A MEMBER.

2113 a. Refund of Employee Contributions for Deceased,
2114 Nonvested Active Members Not Entitled to Deferred Retirement
2115 Benefits. If a nonvested active member dies, then an amount
2116 equal to the total amount of such member's employee

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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.



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2145 1. Eligibility - Retired member. Subject to items (i)
2146 to (iii), inclusive, of subparagraph 2., if a retired member
2147 dies after a postretirement joint survivorship pension has
2148 been elected, then a refund may be paid in lump sum form only
2149 as set forth in subparagraph 2.

2150 2. Rules and regulations. The pension board is
2151 authorized to adopt rules and regulations providing for the
2152 pension board to refund a member's employee contributions
2153 after such member dies with a postretirement joint
2154 survivorship pension election in place and to pay interest on
2155 any such refund, subject to the conditions and limitations
2156 stated below:

2157 (i) Such postretirement joint survivorship pension
2158 election shall not be repealed or rescinded but shall be in
2159 effect at the time of the refund, and the member shall have
2160 enough service at the time of his or her death to be entitled
2161 to a deferred retirement benefit if a refund were not made;
2162 and

2163 (ii) Both the member and the member's designated
2164 primary beneficiary shall be deceased, thus, no refund is
2165 payable in the event that only the member dies while receiving
2166 payment of a postretirement joint survivorship pension; and

2167 (iii) The member's employee contributions shall exceed
2168 the sum of all monthly ~~retirement~~ pension benefits the plan
2169 has paid to the member ~~and/or~~ or the member's designated
2170 beneficiary, or both.

2171 3. Amount of refund. If each of the requirements in
2172 subparagraph 1. and subparagraph 2. are met, and the pension

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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



2201 employee contributions exceed the sum of all monthly
2202 ~~retirement~~ pension or disability benefits the plan has paid to
2203 such member, with interest.

2204 e. Proof of Death and Marriage. The pension board may
2205 require proper proof of death or marriage in accordance with
2206 Section 45-37-123.103(f).

2207 (5) EMPLOYER CONTRIBUTIONS REMAIN IN TRUST FUND.

2208 Employer contributions are never refunded to the member or the
2209 member's designated beneficiary. All associated employer
2210 contributions shall remain in the trust fund, except such
2211 employer contributions that are returned to the county
2212 pursuant to subdivision (7).

2213 (6) CESSATION OF EMPLOYMENT. Unless otherwise
2214 specifically provided in the plan, such as, pursuant to
2215 subdivision (7), a member shall cease to be an employee of the
2216 county in order to receive a refund of employee contributions.

2217 (7) REFUNDS TO CORRECT ERRORS. The pension board, in
2218 its sole discretion, may refund employee contributions and
2219 associated employer contributions to the county to correct
2220 various errors, such as, inclusion in the plan of an
2221 ineligible individual or overpayment of employee
2222 contributions, in accordance with Section 45-37-123.23(b).

2223 (8) NO REFUNDS FOR QUALIFIED MILITARY SERVICE. There
2224 shall be no refund of any contributions attributable to
2225 amounts that the county restores pursuant to Section
2226 45-37-123.80(b) due to a member's qualified military service.

2227 (9) TIMING OF REFUND PAYMENTS. In the event that a
2228 refund is to be paid, such payment shall be made as soon as



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2229 administratively practical following the date upon which
2230 entitlement to the refund occurs.

2231 (10) REFUND TO INCLUDE AMOUNTS TRANSFERRED FROM 457(b)
2232 PLAN. In the event that any member transfers amounts from a \$
2233 457(b), Internal Revenue Code, plan in accordance with Section
2234 45-37-123.190(b), a refund shall include such transferred
2235 amounts, with interest if the member is vested."

2236 "§45-37-123.106

2237 (a) General rules.

2238 (1) EFFECTIVE DATE. Except as otherwise provided
2239 herein, the provisions of this section shall apply for
2240 purposes of determining required minimum distributions for
2241 calendar years beginning on and after January 1, 1987.

2242 (2) REQUIREMENTS OF TREASURY REGULATIONS INCORPORATED.
2243 All distributions required under this section shall be
2244 determined and made in accordance with § 401(a)(9), Internal
2245 Revenue Code, including the incidental death benefit
2246 requirement in § 401(a)(9)(G), and the regulations thereunder.

2247 (3) PRECEDENCE. Subject to the joint and survivor
2248 annuity requirements of the plan, the requirements of this
2249 section shall take precedence over any inconsistent provisions
2250 of the plan.

2251 (b) Time and manner of distribution.

2252 (1) REQUIRED BEGINNING DATE. The member's entire
2253 interest shall be distributed, or begin to be distributed, to
2254 the member no later than the member's required beginning date.

2255 (2) DEATH OF MEMBER BEFORE DISTRIBUTIONS BEGIN. If the
2256 member dies before distributions begin, the member's entire



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2257 interest shall be distributed, or begin to be distributed, no
2258 later than as follows:

2259 a. Life Expectancy Rule, Spouse is Designated
2260 Beneficiary. At the election of the member or, if no election
2261 is made by the member, then at the election of the member's
2262 designated beneficiary, if the member's surviving spouse is
2263 the member's sole designated beneficiary, then distributions
2264 to the surviving spouse shall begin by December 31st of the
2265 calendar year immediately following the calendar year in which
2266 the member died, or by December 31st of the calendar year in
2267 which the member would have attained age ~~72~~ 73, for those
2268 members who would have attained age 72 after December 31,
2269 2022, and age 73 before January 1, 2033; or age 75, for those
2270 members who would have attained age 73 after December 31,
2271 2032, if later.

2272 b. Life Expectancy Rule, Spouse is Not Designated
2273 Beneficiary. At the election of the member or, if no election
2274 is made by the member, then at the election of the member's
2275 designated beneficiary, if the member's surviving spouse is
2276 not the member's sole designated beneficiary, then
2277 distributions to the designated beneficiary shall begin by
2278 December 31st of the calendar year immediately following the
2279 calendar year in which the member died.

2280 c. Five-Year Rule.

2281 1. At the election of the member or, if no election is
2282 made by the member, then at the election of the member's
2283 designated beneficiary, if the member dies before
2284 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.



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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



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2341 manner satisfying the requirements of § 401(a)(9) and the
2342 regulations thereunder applicable to individual accounts.

2343 (c) Determination of amount to be distributed each
2344 year.

2345 (1) GENERAL ANNUITY REQUIREMENTS. A member who is
2346 required to begin payments as a result of attaining his or her
2347 required beginning date, whose interest has not been
2348 distributed in the form of an annuity purchased from an
2349 insurance company or in a single sum before such date, may
2350 receive payments in the form of annuity payments under the
2351 plan. Payments under such annuity shall satisfy the following
2352 requirements:

2353 a. The annuity distributions shall be paid in periodic
2354 payments made at intervals not longer than one year.

2355 b. The distribution period shall be over a life, or
2356 lives, or over a period certain not longer than the period
2357 described in subsection (d) or subsection (e).

2358 c. Once payments have begun over a period certain, the
2359 period certain shall not be changed even if the period certain
2360 is shorter than the maximum permitted.

2361 d. Payments shall either be nonincreasing or increase
2362 only to the extent permitted by one of the following
2363 conditions:

2364 1. By an annual percentage increase that does not
2365 exceed the annual percentage increase in a cost-of-living
2366 index that for a 12-month period ending in the year during
2367 which the increase occurs or the prior year.

2368 2. By a percentage increase that occurs at specified



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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



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2397 rate and the applicable mortality table under § 417(e),
2398 Internal Revenue Code, or, if greater, the total amount of
2399 employee contributions, over the total of payments before the
2400 death of the member.

2401 8. As a result of dividend or other payments that
2402 result from actuarial gains, provided:

2403 (i) Actuarial gain is measured not less frequently than
2404 annually;

2405 (ii) The resulting dividend or other payments are
2406 either paid no later than the year following the year for
2407 which the actuarial experience is measured or paid in the same
2408 form as the payment of the annuity over the remaining period
2409 of the annuity, beginning no later than the year following the
2410 year for which the actuarial experience is measured;

2411 (iii) The actuarial gain taken into account is limited
2412 to actuarial gain from investment experience;

2413 (iv) The assumed interest rate used to calculate such
2414 actuarial gains is not less than three percent; and

2415 (v) The annuity payments are not also being increased
2416 by a constant percentage as described in subparagraph 6.

2417 (2) AMOUNT REQUIRED TO BE DISTRIBUTED BY REQUIRED
2418 BEGINNING DATE.

2419 a. In the case of a member whose interest in the plan
2420 is being distributed as an annuity pursuant to subdivision
2421 (1), the amount that shall be distributed on or before the
2422 member's required beginning date, or, if the member dies
2423 before distributions begin, the date distributions are
2424 required to begin under paragraph a. or b. of subdivision (2)



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2425 of subsection (b), is the payment that is required for one
2426 payment interval.

2427 The second payment need not be made until the end of
2428 the next payment interval even if that payment interval ends
2429 in the next calendar year.

2430 Payment intervals are the periods for which payments
2431 are received, such as, bimonthly, monthly, semi-annually, or
2432 annually. All of the member's benefit accruals as of the last
2433 day of the first distribution calendar year shall be included
2434 in the calculation of the amount of the annuity payments for
2435 payment intervals ending on or after the member's required
2436 beginning date.

2437 b. In the case of a single sum distribution of a
2438 member's entire accrued benefit during a distribution calendar
2439 year, the amount that is the required minimum distribution for
2440 the distribution calendar year, and thus not eligible for
2441 rollover under § 402(c), Internal Revenue Code, is determined
2442 under this paragraph. The portion of the single sum
2443 distribution that is a required minimum distribution is
2444 determined by treating the single sum distribution as a
2445 distribution from an individual account plan and treating the
2446 amount of the single sum distribution as the member's account
2447 balance as of the end of the relevant valuation calendar year.
2448 If the single sum distribution is being made in the calendar
2449 year containing the required beginning date and the required
2450 minimum distribution for the member's first distribution
2451 calendar year has not been distributed, the portion of the
2452 single sum distribution that represents the required minimum



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2453 distribution for the member's first and second distribution
2454 calendar year is not eligible for rollover.

2455 (3) ADDITIONAL ACCRUALS AFTER FIRST DISTRIBUTION
2456 CALENDAR YEAR. Any additional benefits accruing to the member
2457 in a calendar year after the first distribution calendar year
2458 shall be distributed beginning with the first payment interval
2459 ending in the calendar year immediately following the calendar
2460 year in which such amount accrues. Notwithstanding the
2461 preceding, the plan shall not fail to satisfy the requirements
2462 of this subdivision and § 401(a)(9), Internal Revenue Code,
2463 merely because there is an administrative delay in the
2464 commencement of the distribution of the additional benefits
2465 accrued in a calendar year, provided that the actual payment
2466 of such amount commences as soon as practicable. However,
2467 payment shall commence no later than the end of the first
2468 calendar year following the calendar year in which the
2469 additional benefit accrues, and the total amount paid during
2470 such first calendar year shall be no less than the total
2471 amount that was required to be paid during that year under
2472 this subdivision.

2473 (4) DEATH OF MEMBER AFTER DISTRIBUTIONS BEGIN. If a
2474 member dies after distribution of the member's interest begins
2475 in the form of an annuity meeting the requirements of this
2476 section, then the remaining portion of the member's interest
2477 shall continue to be distributed over the remaining period
2478 over which distributions commenced.

2479 (d) Requirements for annuity distributions that
2480 commence during member's lifetime.

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2481 (1) JOINT LIFE ANNUITIES WHERE THE DESIGNATED
2482 BENEFICIARY IS THE MEMBER'S SPOUSE. If distributions commence
2483 under a distribution option that is in the form of a joint and
2484 survivor annuity for the joint lives of the member and the
2485 member's spouse, the minimum distribution incidental benefit
2486 requirement shall not be satisfied as of the date
2487 distributions commence unless, under the distribution option,
2488 the periodic annuity payment payable to the survivor does not
2489 at any time on and after the member's required beginning date
2490 exceed the annuity payable to the member. In the case of an
2491 annuity that provides for increasing payments, the requirement
2492 of this subdivision shall not be violated merely because
2493 benefit payments to the designated beneficiary increase,
2494 provided the increase is determined in the same manner for the
2495 member and the designated beneficiary. If the form of
2496 distribution combines a joint and survivor annuity for the
2497 joint lives of the member and the member's spouse and a period
2498 certain annuity, the preceding requirements shall apply to
2499 annuity payments to be made to the designated beneficiary
2500 after the expiration of the period certain.

2501 (2) JOINT LIFE ANNUITIES WHERE THE DESIGNATED
2502 BENEFICIARY IS NOT THE MEMBER'S SPOUSE. If the member's
2503 interest is being distributed in the form of a joint and
2504 survivor annuity for the joint lives of the member and a
2505 designated beneficiary other than the member's spouse, the
2506 minimum distribution incidental benefit requirement shall not
2507 be satisfied as of the date distributions commence unless
2508 under the distribution option, the annuity payments to be made



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2509 on and after the member's required beginning date shall
2510 satisfy the conditions of this subdivision. The periodic
2511 annuity payment payable to the survivor shall not at any time
2512 on and after the member's required beginning date exceed the
2513 applicable percentage of the annuity payment payable to the
2514 member using the table set forth in Treasury Regulation §
2515 1.401(a)(9)-6, Q & A-2(c)(2). The applicable percentage is
2516 based on the adjusted member/designated beneficiary age
2517 difference. The adjusted member/designated beneficiary age
2518 difference is determined by first calculating the excess of
2519 the age of the member over the age of the designated
2520 beneficiary based on their ages on their birthdays in a
2521 calendar year. If the member is younger than age 70, the age
2522 difference determined in the previous sentence is reduced by
2523 the number of years that the member is younger than age 70 on
2524 the member's birthday in the calendar year that contains the
2525 annuity starting date. In the case of an annuity that provides
2526 for increasing payments, the requirement of this subdivision
2527 shall not be violated merely because benefit payments to the
2528 designated beneficiary increase, provided the increase is
2529 determined in the same manner for the member and the
2530 designated beneficiary. If the form of distribution combines a
2531 joint and survivor annuity for the joint lives of the member
2532 and a ~~nonspouse~~ non-spouse designated beneficiary and a period
2533 certain annuity, the preceding requirements shall apply to
2534 annuity payments to be made to the designated beneficiary
2535 after the expiration of the period certain.

2536 (3) PERIOD CERTAIN ANNUITIES. Unless the member's



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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.



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2565 At the election of the member or, if no election is
2566 made by the member, then at the election of the member's
2567 designated beneficiary, if the member dies before the date
2568 distribution of his or her interest begins and there is a
2569 designated beneficiary, the member's entire interest shall be
2570 distributed, beginning no later than the time described in
2571 paragraph a. or b. of subdivision (2) of subsection (b), over
2572 the life of the designated beneficiary or over a period
2573 certain not exceeding:

2574 a. Unless the annuity starting date is before the first
2575 distribution calendar year, the life expectancy of the
2576 designated beneficiary determined using the designated
2577 beneficiary's age as of the designated beneficiary's birthday
2578 in the calendar year immediately following the calendar year
2579 of the member's death; or

2580 b. If the annuity starting date is before the first
2581 distribution calendar year, the life expectancy of the
2582 designated beneficiary determined using the designated
2583 beneficiary's age as of the designated beneficiary's birthday
2584 in the calendar year that contains the annuity starting date.

2585 (2) MEMBER SURVIVED BY DESIGNATED BENEFICIARY AND
2586 FIVE-YEAR RULE. At the election of the member or, if no
2587 election is made by the member, then at the election of the
2588 member's designated beneficiary, if the member dies before
2589 distributions begin and there is a designated beneficiary,
2590 then the member's entire interest shall be distributed to the
2591 designated beneficiary by December 31st of the calendar year
2592 containing the fifth anniversary of the member's death. This



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2593 subdivision shall apply to all distributions.

2594 (3) NO DESIGNATED BENEFICIARY. If the member dies
2595 before the date distributions begin and there is no designated
2596 beneficiary as of September 30th of the year following the
2597 year of the member's death, distribution of the member's
2598 entire interest shall be completed by December 31st of the
2599 calendar year containing the fifth anniversary of the member's
2600 death.

2601 (4) DEATH OF SURVIVING SPOUSE BEFORE DISTRIBUTIONS TO
2602 SURVIVING SPOUSE BEGIN. If the member dies before the date
2603 distribution of his or her interest begins, the member's
2604 surviving spouse is the member's sole designated beneficiary,
2605 and the surviving spouse dies before distributions to the
2606 surviving spouse begin, this subsection shall apply as if the
2607 surviving spouse were the member, except that the time by
2608 which distributions shall begin shall be determined without
2609 regard to paragraph a. of subdivision (2) of subsection (b).

2610 (f) Definitions.

2611 (1) ACTUARIAL GAIN. The difference between an amount
2612 determined using the actuarial assumptions, such as,
2613 investment return, mortality, expense, and other similar
2614 assumptions, used to calculate the initial payments before
2615 adjustment for any increases and the amount determined under
2616 the actual experience with respect to those factors. Actuarial
2617 gain also includes differences between the amount determined
2618 using actuarial assumptions when an annuity was purchased or
2619 commenced and such amount determined using actuarial
2620 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



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2649 the fixed percentage, the fixed percentage may be treated as
2650 an increase in an eligible cost-of-living index, provided it
2651 does not exceed the sum of:

- 2652 1. The cost-of-living index for that year; and
- 2653 2. The accumulated excess of the annual cost-of-living
2654 index from each prior year over the fixed annual percentage
2655 used in that year, reduced by any amount previously utilized
2656 under this paragraph.

2657 c. A percentage adjustment based on the increase in
2658 compensation for the position held by the member at the time
2659 of retirement, and provided under the terms of the plan.

2660 (5) LIFE EXPECTANCY. The life expectancy as computed by
2661 use of the Single Life Table in Treasury Regulation §
2662 1.401(a)(9)-9.

2663 (6) REQUIRED BEGINNING DATE. The April 1st of the
2664 calendar year following the later of:

2665 a. The calendar year in which the member attains age ~~72~~
2666 73, for those members who attain age 72 after December 31,
2667 2022, and age 73 before January 1, 2033; or attains age 75,
2668 for those members who attain age 73 after December 31, 2032;
2669 or

2670 b. The calendar year in which the member retires."

2671 "§45-37-123.108

2672 Except as otherwise specifically provided in this
2673 section, this section shall be effective as of January 1,
2674 1993.

2675 (1) ROLLOVERS GENERALLY.

2676 a. Notwithstanding any provision of the plan to the



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2677 contrary that would otherwise limit a distributee's election
2678 under this section, a distributee, at the time and in the
2679 manner prescribed by the pension board, may elect to have any
2680 portion of an eligible rollover distribution that is equal to
2681 at least two hundred dollars (\$200) paid directly to an
2682 eligible retirement plan specified by the distributee in a
2683 direct rollover.

2684 b. For purposes of this subdivision, the following
2685 definitions shall apply:

2686 1.(i) An eligible rollover distribution is any
2687 distribution of all or any portion of the balance to the
2688 credit of the distributee, except that an eligible rollover
2689 distribution does not include: Any distribution that is one of
2690 a series of substantially equal periodic payments, not less
2691 frequently than annually, made for the life, or life
2692 expectancy, of the distributee or the joint lives, or joint
2693 life expectancies, of the distributee and the distributee's
2694 designated beneficiary, or for a specified period of 10 years
2695 or more; any distribution to the extent such distribution is
2696 required under § 401(a)(9), Internal Revenue Code; the portion
2697 of any other distribution that is not includible in gross
2698 income, determined without regard to the exclusion for net
2699 unrealized appreciation with respect to employer securities;
2700 any hardship distribution; and any other distribution that is
2701 reasonably expected to total less than two hundred dollars
2702 (\$200) during a year.

2703 (ii) Notwithstanding the above, with respect to
2704 distributions made after December 31, 2001, a portion of a



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2705 distribution shall not fail to be an eligible rollover
2706 distribution merely because the portion consists of ~~aftertax~~
2707 after-tax employee contributions which are not includible in
2708 gross income. However, such portion may be transferred only to
2709 an individual retirement account or annuity described in §
2710 408(a) or (b), Internal Revenue Code, or to a qualified trust
2711 described in § 401(a), Internal Revenue Code, or annuity
2712 contract described in § 403(a), Internal Revenue Code, that
2713 agrees to separately account for amounts so transferred,
2714 including separately accounting for the portion of such
2715 distribution which is includible in gross income and the
2716 portion of such distribution which is not so includible.

2717 2. With respect to distributions made after December
2718 31, 2001, an eligible retirement plan is an individual
2719 retirement account described in § 408(a), Internal Revenue
2720 Code, an individual retirement annuity described in § 408(b),
2721 Internal Revenue Code, other than an endowment contract, a
2722 qualified trust described in § 401(a), Internal Revenue Code,
2723 which is exempt from tax under § 501(a), Internal Revenue
2724 Code, that accepts the distributee's eligible rollover
2725 distribution, an annuity plan described in § 403(a), Internal
2726 Revenue Code, an eligible deferred compensation plan described
2727 in § 457(b), Internal Revenue Code, which is maintained by an
2728 eligible employer described in § 457(e)(1)(A), Internal
2729 Revenue Code, and an annuity contract described in § 403(b),
2730 Internal Revenue Code, that accepts the distributee's eligible
2731 rollover distribution.

2732 3. A distributee includes an employee or former



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2733 employee. In addition, the employee's or former employee's
2734 surviving spouse and the employee's or former employee's
2735 spouse or former spouse who is the alternate payee under a
2736 qualified domestic relations order, as defined in § 414(p),
2737 Internal Revenue Code, are distributees with regard to the
2738 interest of the spouse or former spouse.

2739 4. A direct rollover is a payment by the plan to the
2740 eligible retirement plan specified by the distributee.

2741 (2) DIRECT ROLLOVERS BY NON-SPOUSE DESIGNATED
2742 BENEFICIARIES.

2743 a. Notwithstanding the direct rollover provisions in
2744 subdivision (1), for distributions after December 31, 2009, in
2745 accordance with § 402(c)(11), Internal Revenue Code, a
2746 non-spouse beneficiary who is a designated beneficiary, as
2747 defined in § 401(a)(9)(E), Internal Revenue Code, and the
2748 regulations thereunder, by means of a direct
2749 trustee-to-trustee transfer, may roll over all or any portion
2750 of an eligible rollover distribution, as defined in §
2751 401(a)(31), Internal Revenue Code, to an individual retirement
2752 plan the designated beneficiary establishes for purposes of
2753 receiving the distribution. If a non-spouse designated
2754 beneficiary receives a distribution from the plan, the
2755 distribution is not eligible for a 60-day, non-direct
2756 rollover.

2757 b. If the member's named designated beneficiary is a
2758 trust, the plan may make a direct trustee-to-trustee transfer
2759 to an individual retirement plan on behalf of the trust,
2760 provided the trust satisfies the requirements to be a



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2761 designated beneficiary within the meaning of § 401(a)(9)(E),
2762 Internal Revenue Code.

2763 c. A non-spouse designated beneficiary may not roll
2764 over an amount which is a required minimum distribution, as
2765 determined under applicable regulations and other Internal
2766 Revenue Service guidance. If the member dies before the
2767 member's required beginning date and the non-spouse designated
2768 beneficiary rolls over to an individual retirement plan the
2769 maximum amount eligible for rollover, the non-spouse
2770 designated beneficiary may elect to use either the five-year
2771 rule or the life expectancy rule, pursuant to Treasury
2772 Regulation § 1.401(a)(9)-3, A-4(c), in determining the
2773 required minimum distributions from the individual retirement
2774 plan that receives the non-spouse designated beneficiary's
2775 distribution.

2776 (3) ROLLOVER TO ROTH IRA. For distributions made after
2777 December 31, 2007, in accordance with § 408A, Internal Revenue
2778 Code, a member may elect to roll over directly an eligible
2779 rollover distribution to a Roth IRA, as defined in § 408A(b),
2780 Internal Revenue Code."

2781 "§45-37-123.132

2782 (a) Adjustment if fewer than 10 years. Effective for
2783 limitation years ending after December 31, 2001, if a member
2784 has fewer than 10 years of participation in the plan, then the
2785 defined benefit dollar limitation of Section 45-37-123.131(a)
2786 shall be multiplied by a fraction, the numerator of which is
2787 the number of years, or part thereof, of participation in the
2788 plan, and the denominator of which is 10. However, in no event



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2789 shall such fraction be less than one-tenth. Notwithstanding
2790 the foregoing, no adjustment shall be made to the defined
2791 benefit dollar limitation for a distribution on account of a
2792 member becoming disabled by reason of personal injuries or
2793 sickness, or as a result of the death of a member. For
2794 purposes of this subsection, a year of participation means
2795 each accrual computation period for which the following
2796 conditions are met: The member is credited with a period of
2797 service for benefit accrual purposes, required under the terms
2798 of the plan in order to accrue a benefit for the accrual
2799 computation period, and the member is included as a member
2800 under the eligibility provisions of the plan for at least one
2801 day of the accrual computation period. If these two conditions
2802 are met, the portion of a year of participation credited to
2803 the member shall equal the amount of benefit accrual service
2804 credited to the member for such accrual computation period. A
2805 member who is permanently and totally disabled within the
2806 meaning of § 415(c)(3)(C)(i), Internal Revenue Code, for an
2807 accrual computation period shall receive a year of
2808 participation with respect to the period. In no event shall
2809 more than one year of participation be credited for any
2810 12-month period.

2811 (b) Adjustment of defined benefit dollar limitation for
2812 commencement before age 62. Effective for benefits commencing
2813 in limitation years ending after December 31, 2001, the
2814 defined benefit dollar limitation shall be adjusted if the
2815 annuity starting date of the member's benefit is before age
2816 62.



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2817 (1) LIMITATION YEARS BEGINNING BEFORE JULY 1, 2007. If
2818 the annuity starting date for the member's benefit is prior to
2819 age 62 and occurs in a limitation year beginning before July
2820 1, 2007, the defined benefit dollar limitation for the
2821 member's annuity starting date is the annual amount of a
2822 benefit payable in the form of a straight life annuity
2823 commencing at the member's annuity starting date that is the
2824 actuarial equivalent of the defined benefit dollar limitation
2825 with actuarial equivalence computed using whichever of the
2826 following produces the smaller annual amount: The applicable
2827 interest rate and applicable mortality table, or other tabular
2828 factor, as defined in § 417(e)(3), Internal Revenue Code; or a
2829 five percent interest rate assumption and the applicable
2830 mortality table as defined in § 417(e)(3), Internal Revenue
2831 Code.

2832 (2) LIMITATION YEARS BEGINNING ON OR AFTER JULY 1,
2833 2007.

2834 a. Plan Does Not Have Immediately Commencing Straight
2835 Life Annuity Payable at Both Age 62 and the Age of Benefit
2836 Commencement. If the annuity starting date for the member's
2837 benefit is prior to age 62 and occurs in a limitation year
2838 beginning on or after July 1, 2007, and the plan does not have
2839 an immediately commencing straight life annuity payable at
2840 both age 62 and the age of benefit commencement, the defined
2841 benefit dollar limitation for the member's annuity starting
2842 date is the annual amount of a benefit payable in the form of
2843 a straight life annuity commencing at the member's annuity
2844 starting date that is the actuarial equivalent of the defined



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2845 benefit dollar limitation with actuarial equivalence computed
2846 using a five percent interest rate assumption and the
2847 applicable mortality table under Treasury Regulation §
2848 1.417(e)-1(d)(2), or the applicable mortality table as
2849 required by law, that is effective for that annuity starting
2850 date, and expressing the member's age based on completed
2851 calendar months as of the annuity starting date.

2852 b. Plan Has Immediately Commencing Straight Life
2853 Annuity Payable at Both Age 62 and the Age of Benefit
2854 Commencement. If the annuity starting date for the member's
2855 benefit is prior to age 62 and occurs in a limitation year
2856 beginning on or after July 1, 2007, and the plan has an
2857 immediately commencing straight life annuity payable at both
2858 age 62 and the age of benefit commencement, the defined
2859 benefit dollar limitation for the member's annuity starting
2860 date is the lesser of the limitation determined under
2861 paragraph a. and the defined benefit dollar limitation
2862 multiplied by the ratio of the annual amount of the
2863 immediately commencing straight life annuity under the plan at
2864 the member's annuity starting date to the annual amount of the
2865 immediately commencing straight life annuity under the plan at
2866 age 62, both determined without applying the limitations of
2867 this subpart.

2868 (3) MORTALITY ADJUSTMENTS. Notwithstanding the other
2869 requirements of this subsection, no adjustment shall be made
2870 to the defined benefit dollar limitation to reflect the
2871 probability of a member's death between the annuity starting
2872 date and age 62 if benefits are not forfeited upon the death



2873 of the member prior to the annuity starting date. To the
2874 extent benefits are forfeited upon death before the annuity
2875 starting date, such an adjustment shall be made. For this
2876 purpose, no forfeiture shall be treated as occurring upon the
2877 member's death if the plan does not charge members for
2878 providing a qualified preretirement survivor annuity, as
2879 defined in § 417(c), Internal Revenue Code, upon the member's
2880 death.

2881 (4) EXCEPTION FOR CERTAIN MEMBERS TO THE ADJUSTMENT OF
2882 DEFINED BENEFIT DOLLAR LIMITATION FOR COMMENCEMENT BEFORE AGE
2883 62.

2884 a. Qualified Participants. Pursuant to § 415(b)(2)(G)
2885 and (H), Internal Revenue Code, no age adjustment is made to
2886 the defined benefit dollar limitation for commencement before
2887 age 62 for any qualified participant. For this purpose, a
2888 qualified participant is a participant in a defined benefit
2889 plan that is maintained by a state or any political
2890 subdivision of a state with respect to whom the service taken
2891 into account in determining the amount of the benefit under
2892 the defined benefit plan includes at least 15 years of service
2893 of the participant as a full-time employee of any police
2894 department or fire department that is organized and operated
2895 by the state or political subdivision maintaining such defined
2896 benefit plan to provide police protection, firefighting
2897 services, or emergency medical services for any area within
2898 the jurisdiction of such state or political subdivision, or as
2899 a member of the Armed Forces of the United States.

2900 b. Survivor and Disability Benefits. Pursuant to §



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2901 415(b)(2)(I), Internal Revenue Code, no age adjustment is made
2902 to the defined benefit dollar limitation for commencement
2903 before age 62 for a distribution from the plan on account of a
2904 member becoming disabled by reason of personal injuries or
2905 sickness, or as a result of the death of a member.

2906 (c) Actuarial equivalence of forms of benefit other
2907 than a straight life annuity. Effective for distributions in
2908 plan years beginning after December 31, 2003, the
2909 determination of actuarial equivalence of forms of benefit
2910 other than a straight life annuity shall be made in accordance
2911 with subdivision (1) or subdivision (2).

2912 (1) BENEFIT FORMS NOT SUBJECT TO § 417(e)(3), INTERNAL
2913 REVENUE CODE. The straight life annuity that is actuarially
2914 equivalent to the member's form of benefit shall be determined
2915 under this subdivision if the form of the member's benefit is
2916 either a nondecreasing annuity, other than a straight life
2917 annuity, payable for a period of not less than the life of the
2918 member, or, in the case of a qualified preretirement survivor
2919 annuity, the life of the surviving spouse, or an annuity that
2920 decreases during the life of the member merely because of the
2921 death of the survivor annuitant, but only if the reduction is
2922 not below 50 percent of the benefit payable before the death
2923 of the survivor annuitant, or the cessation or reduction of
2924 Social Security supplements or qualified disability payments,
2925 as defined in § 401(a)(11), Internal Revenue Code.

2926 a. Limitation Years Beginning Before July 1, 2007. For
2927 limitation years beginning before July 1, 2007, the
2928 actuarially equivalent straight life annuity is equal to the



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2929 annual amount of the straight life annuity commencing at the
2930 same annuity starting date that has the same actuarial present
2931 value as the member's form of benefit computed using whichever
2932 of the following produces the greater annual amount:

2933 1. The applicable interest rate and applicable
2934 mortality table, or other tabular factor, as defined in §
2935 417(e)(3), Internal Revenue Code, for adjusting benefits in
2936 the same form; or

2937 2. Five percent interest rate assumption and the
2938 applicable mortality table as defined in § 417(e)(3), Internal
2939 Revenue Code.

2940 b. Limitation Years Beginning On or After July 1, 2007.
2941 For limitation years beginning on or after July 1, 2007, the
2942 actuarially equivalent straight life annuity is equal to the
2943 greater of:

2944 1. The annual amount of the straight life annuity, if
2945 any, payable to the member under the plan commencing at the
2946 same annuity starting date as the member's form of benefit; or

2947 2. The annual amount of the straight life annuity
2948 commencing at the same annuity starting date that has the same
2949 actuarial present value as the member's form of benefit,
2950 computed using a five percent interest rate assumption and the
2951 applicable mortality table as described in Treasury Regulation
2952 § 1.417(e)-1(d)(2), or the applicable mortality table as
2953 required by law, for that annuity starting date.

2954 (2) BENEFIT FORMS SUBJECT TO § 417(e)(3) INTERNAL
2955 REVENUE CODE. The straight life annuity that is actuarially
2956 equivalent to the member's form of benefit shall be determined



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2957 under this subdivision if the form of the member's benefit is
2958 other than a benefit form described in subdivision (1). In
2959 this case, the actuarially equivalent straight life annuity
2960 shall be determined as follows:

2961 a. Annuity Starting Date in Plan Years Beginning After
2962 2005. If the annuity starting date of the member's form of
2963 benefit is in a plan year beginning after 2005, the
2964 actuarially equivalent straight life annuity is equal to the
2965 greatest of:

2966 1. The annual amount of the straight life annuity
2967 commencing at the same annuity starting date that has the same
2968 actuarial present value as the member's form of benefit,
2969 computed using the assumptions, as defined in subdivision (3)
2970 of Section 45-37-123.01;

2971 2. The annual amount of the straight life annuity
2972 commencing at the same annuity starting date that has the same
2973 actuarial present value as the member's form of benefit,
2974 computed using a five and one-half percent interest rate
2975 assumption and the applicable mortality table for the
2976 distribution under Treasury Regulation § 1.417(e)-1(d)(2), or
2977 the applicable mortality table as required by law; or

2978 3. The annual amount of the straight life annuity
2979 commencing at the same annuity starting date that has the same
2980 actuarial present value as the member's form of benefit,
2981 computed for the distribution under Treasury Regulation §
2982 1.417(e)-1(d)(3), or the applicable interest rate as required
2983 by law, and the applicable mortality table for the
2984 distribution under Treasury Regulation § 1.417(e)-1(d)(2), or



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2985 the applicable mortality table as required by law, divided by
2986 1.05.

2987 b. Annuity Starting Date in Plan Years Beginning in
2988 2004 or 2005. If the annuity starting date of the member's
2989 form of benefit is in a plan year beginning in 2004 or 2005,
2990 the actuarially equivalent straight life annuity is equal to
2991 the annual amount of the straight life annuity commencing at
2992 the same annuity starting date that has the same actuarial
2993 present value as the member's form of benefit, computed using
2994 whichever of the following produces the greater annual amount:

2995 1. The applicable interest rate and applicable
2996 mortality table, or other tabular factor, as defined in §
2997 417(e)(3), Internal Revenue Code, for adjusting benefits in
2998 the same form; or

2999 2. A five and one-half percent interest rate assumption
3000 and the applicable mortality table for the distribution under
3001 Treasury Regulation § 1.417(e)-1(d)(2), or the applicable
3002 mortality table as required by law.

3003 (d) For purposes of Section 45-37-123.130 and
3004 subsection (b), no adjustments under § 415(d), Internal
3005 Revenue Code, shall be taken into account before the
3006 limitation year for which such adjustment first takes effect.

3007 (e) For purposes of Section 45-37-123.130, no actuarial
3008 adjustment to the benefit is required for the value of a
3009 qualified joint and survivor annuity, ancillary benefits that
3010 are not directly related to retirement benefits, such as a
3011 qualified disability benefit, preretirement death benefits,
3012 and postretirement medical benefits, as set forth in § 415(b),



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3013 Internal Revenue Code, and Treasury Regulation §
3014 1.415(b)-1(c)(4)(1)(B), and the value of postretirement
3015 cost-of-living increases made in accordance with § 415(d),
3016 Internal Revenue Code, and Treasury Regulation §
3017 1.415-3(c)(2)(iii). The annual benefit does not include any
3018 benefits attributable to employee contributions or rollover
3019 contributions, or the assets transferred from a qualified plan
3020 that was not maintained by the county."

3021 "§45-37-123.150

3022 (a) The pension board shall have the right at any time
3023 to amend the plan, subject to the limitations of this section.
3024 Any amendment shall be consistent with the act, any other
3025 legislation relating to the system, or consistent with other
3026 authority granted to the pension board. Additionally, in the
3027 event that the Legislature amends the act or makes other
3028 statutory changes that impact the terms of the plan, the
3029 pension board ~~shall,~~ subject to applicable law, may cause the
3030 plan to be amended as necessary to reflect ~~such~~ the
3031 ~~legislation. The pension board, and each of its individual~~
3032 ~~members, when acting in its or their official capacity, shall~~
3033 ~~be immune from civil liability against the claims of any~~
3034 ~~individual, member, or other entity of any nature whatsoever~~
3035 ~~arising out of the pension board's or its members'~~
3036 ~~administration of the plan or related to its decisions or~~
3037 ~~actions, which decisions or actions were made in good faith,~~
3038 ~~without malice, and predicated upon information that was then~~
3039 ~~available to the pension board.~~

3040 ~~(b) As determined by the pension board or by~~

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~~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.~~

~~(e)~~ (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



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3097 thereof, shall be subject to or exacted on account of, any
3098 tax; and no retirement or disability allowance or right to
3099 return of contributions, or other benefits payable as set
3100 forth in the plan, shall be assignable or be subject to
3101 execution, levy, attachment, garnishment, or other legal
3102 process. Accordingly, the plan shall not recognize any
3103 domestic relations order attempting to provide a member's
3104 benefits, or any portion thereof, to an alternate payee.

3105 (b) In the event that the county shall make an
3106 excessive contribution under a mistake of fact, the pension
3107 board, or its agent, may demand repayment of such excessive
3108 contribution, and the trustees shall return such amount,
3109 adjusted for any income or loss in value so long as such
3110 amount is returned within one year of the date of the mistaken
3111 contribution. Notwithstanding the immediately preceding
3112 sentence, any return shall be limited to an amount that, in
3113 the judgment of the pension board, would not cause the system
3114 to become actuarially unsound.

3115 (c) In the event that the plan makes an overpayment to
3116 a member~~or~~, designated beneficiary, or other beneficiary for
3117 any reason, such as, miscalculation of a pension benefit or
3118 payment prior to the time that the member~~or~~, designated
3119 beneficiary, or other beneficiary was entitled to payment, the
3120 pension board may elect to offset future pension~~payments~~
3121 benefits until~~such~~ the overpayment has been recouped by the
3122 trust fund to the extent allowed by law.

3123 ~~(d) Subject to applicable law, no person shall be~~
3124 ~~entitled to receive a deferred pension if his or her~~

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~~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



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3153 added to the Code of Alabama 1975, to read as follows:

3154 §45-37-123.31

3155 The system, the pension board and each of its
3156 individual members, and employees of the system, when acting
3157 within the scope of its or their official capacity, shall be
3158 immune from civil liability and not subject to legal claims
3159 for damages by any individual, member, designated beneficiary
3160 or other beneficiary, or entity, directly or by way of
3161 contribution, for any decision, act, or omission resulting in
3162 damage or injury unless the decision, act, or omission was
3163 caused by willful and wanton conduct, grossly negligent
3164 conduct, gross malfeasance, or gross misfeasance. For purposes
3165 of this section, "official capacity" means any decision, act,
3166 or omission taken by the pension board or its individual
3167 members to further the purpose for which the system is
3168 established.

3169 §45-37-123.110

3170 (a) To the extent allowed by law, in the event that all
3171 or any portion of the benefit payable to a missing participant
3172 or missing beneficiary shall remain unpaid either: (1) with
3173 respect to a nonvested member, for more than five years
3174 following the member's separation from service of the county;
3175 or (2) with respect to a vested member, for more than five
3176 years following the applicable date, as may be set forth in
3177 any administrative policies established pursuant to Section
3178 45-37-123.22(b)(5), the amount of the missing participant's or
3179 missing beneficiary's benefit (as applicable) or employee
3180 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. Sections 45-37-123.52 and 45-37-123.53, Code



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3209 of Alabama 1975, providing for termination of eligibility and
3210 the conversion of unpaid membership time to paid membership
3211 time, are repealed.

3212 Section 4. This act shall become effective on June 1,
3213 2024.



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3214
3215
3216

House of Representatives

3217 Read for the first time and referred20-Feb-24
3218 to the House of Representatives
3219 committee on Jefferson County
3220 Legislation
3221
3222 Read for the second time and placed06-Mar-24
3223 on the calendar:
3224 1 amendment
3225
3226 Read for the third time and passed07-Mar-24
3227 as amended
3228 Yeas 25
3229 Nays 0
3230 Abstains 78
3231
3232
3233 John Treadwell
3234 Clerk
3235