

1 HB498
2 192585-1
3 By Representatives Baker, Chesteen and Shiver
4 RFD: Ways and Means Education
5 First Read: 08-MAR-18

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8 SYNOPSIS: Under existing law, a member of the
9 Teachers' Retirement System or the Employees'
10 Retirement System may elect, prior to retirement,
11 to receive, in lieu of his or her retirement
12 allowance payable throughout life, the actuarial
13 equivalent, at that time, of his or her retirement
14 allowance in a reduced retirement allowance payable
15 throughout life, with certain options available to
16 the member for the disbursement of the reduced
17 retirement allowance.

18 This bill would give certain retirees of the
19 Teachers' Retirement System and the Employees'
20 Retirement System an additional option of electing
21 to receive a partial lump-sum distribution as a
22 single payment, not to exceed the sum of 24 months
23 of the maximum monthly retirement allowance of the
24 member, and the option may be elected in addition
25 to the other options available to the member for
26 the disbursement of the reduced retirement
27 allowance, under certain conditions.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT

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6 To amend Sections 16-25-14 and 36-27-16, Code of
7 Alabama 1975, relating to the retirement of members of the
8 Teachers' Retirement System and the Employees' Retirement
9 System who elect to receive a reduced retirement allowance; to
10 provide an additional option of electing to receive a partial
11 lump-sum distribution as a single payment, under certain
12 conditions.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 16-25-14 and 36-27-16, Code of
15 Alabama 1975, are amended to read as follows:

16 "§16-25-14.

17 "(a) (1) Any Tier I plan member who withdraws from
18 service upon or after attainment of age 60 and any Tier II
19 plan member who withdraws from service upon or after
20 attainment of age 62, or in the case of a Tier II plan member
21 who is a correctional officer, firefighter, or law enforcement
22 officer as defined in Section 36-27-59, who withdraws from
23 service upon or after attainment of age 56 with at least ten
24 years of creditable service as a correctional officer,
25 firefighter, or law enforcement officer may retire upon
26 written application to the Board of Control setting forth at
27 what time, not less than 30 days nor more than 90 days

1 subsequent to the execution and filing thereof, he or she
2 desires to be retired; provided, that any such member who
3 became a member on or after October 1, 1963, shall have
4 completed 10 or more years of creditable service.

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

20 "(3) Any person who is presently covered or is
21 eligible to be covered under the Employees' Retirement System
22 of Alabama or the Teachers' Retirement System of Alabama and
23 who, prior to such coverage or eligibility for coverage,
24 served as head of any Alabama county's public library service
25 department shall have credited to him or her one year of
26 creditable service for each year served as such head, not to
27 exceed 12 years; provided, that such person shall pay into the

1 retirement system the employee's part of the cost or
2 contribution based on the salary paid to such person during
3 the time of his or her service in the above capacity, with
4 such cost or contribution to be calculated at the percent or
5 rate in effect on October 1, 1973.

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

16 "(b) Upon retirement from service, a Tier I plan
17 member shall receive a service retirement allowance which
18 shall consist of:

19 "(1) An annuity which shall be the actuarial
20 equivalent of his or her accumulated contributions at the time
21 of his or her retirement;

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

26 "(3) If he or she has a prior service certificate in
27 full force and effect, an additional pension which shall be

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

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

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

24 "(2) If he or she became a member before October 1,
25 1971, \$72 multiplied by the number of years of his or her
26 creditable service not in excess of 25 years.

1 Notwithstanding, a member who retired prior to
2 October 1, 1971, under service retirement shall receive \$120
3 multiplied by the number of years of his or her creditable
4 service not in excess of 25 years.

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

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

1 creditable service may be retired by the Board of Control on a
2 disability retirement allowance not less than 30 nor more than
3 90 days next following the date of filing such an application;
4 provided, that the medical board, after a medical examination
5 of such member, shall certify that the member is totally and
6 permanently mentally or physically incapacitated from regular
7 and substantial gainful employment, and that such member
8 should be retired.

9 "(f) Upon retirement for disability, a Tier I plan
10 member shall receive a service retirement allowance if he or
11 she has attained age 60 or if any law or part of any law
12 pertaining to retirement under the Teachers' Retirement System
13 of Alabama provides for service retirement after the
14 completion of 25 years of creditable service and the member
15 has completed 25 years of creditable service; otherwise, he or
16 she shall receive a disability retirement allowance which
17 shall consist of:

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

21 "(2) A pension which shall be equal to the pension
22 that would have been payable under subdivisions (2) and (3) of
23 subsection (b) of this section upon service retirement at age
24 60 had the member continued in service to that age without
25 change in compensation.

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

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

7 "b. If he or she became a member before October 1,
8 1971, \$54 multiplied by the number of years of his or her
9 creditable service not in excess of 25 years.

10 "Notwithstanding, a member who retired prior to
11 October 1, 1971, for disability shall receive \$90 multiplied
12 by the number of years of his or her creditable service not in
13 excess of 25 years.

14 "(g) Upon retirement for disability, a Tier II plan
15 member shall receive a service retirement allowance if the
16 member has attained age 62, or in the case of a Tier II plan
17 member who is a correctional officer, firefighter, or law
18 enforcement officer as defined in Section 36-27-59, if the
19 member has attained age 56 with at least ten years of
20 creditable service as a correctional officer, firefighter, or
21 law enforcement officer, otherwise, the member shall receive a
22 disability retirement allowance which shall be equal to one
23 and sixty-five hundredths percent (1.65%) of the member's
24 average final compensation multiplied by the number of years
25 of creditable service.

26 "(h) (1) Once each year during the first five years
27 following the retirement of a member on a disability

1 retirement allowance and once in every three-year period
2 thereafter, the Board of Control may and upon his or her
3 application shall require any disability beneficiary who has
4 not yet attained age 60 for a Tier I plan member or age 62 for
5 a Tier II plan member to undergo a medical examination, such
6 examination to be made at the place of residence of such
7 beneficiary or other place mutually agreed upon by a physician
8 of or designated by the medical board. Should any disability
9 beneficiary who has not yet attained age 60 for a Tier I plan
10 member or age 62 for a Tier II plan member refuse to submit to
11 such medical examination, his or her pension may be
12 discontinued until his or her withdrawal of such refusal, and
13 should his refusal continue for one year, all his or her
14 rights in and to his or her pension may be revoked by the
15 Board of Control; provided, that these requirements relative
16 to the medical examination shall not apply in the case of a
17 Tier II plan member who is a correctional officer,
18 firefighter, or law enforcement officer as defined in Section
19 36-27-59 retired for disability and who has attained age 56
20 with at least ten years of creditable service as a
21 correctional officer, firefighter, or law enforcement officer.

22 "(2) Should the medical board report and certify to
23 the Board of Control that a disability beneficiary who is a
24 Tier I plan member is engaged in or is able to engage in a
25 gainful occupation paying more than the difference between his
26 or her retirement allowance and his average final compensation
27 and should the Board of Control concur in such report, then

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

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

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

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

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

20 "(3) Upon the death of a member on account of whom
21 no survivor allowance is payable under subdivision (2) of this
22 subsection, the accumulated contributions of the member plus
23 an amount equal to the accumulated contributions not to exceed
24 \$5,000 or the accumulated contributions of the member plus the
25 benefit provided by Section 36-27B-3 if a benefit is payable
26 under such section shall be paid to his or her estate or to

1 such person as he shall have nominated by written designation
2 duly executed and filed with the Board of Control.

3 "(j) With the provision the election of an option
4 shall be effective on the effective date of retirement, any
5 member may elect prior to retirement to receive, in lieu of
6 his or her retirement allowance payable throughout life, the
7 actuarial equivalent at that time of his or her retirement
8 allowance in a reduced retirement allowance payable throughout
9 life with the provision that:

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

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

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

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

8 "(5) OPTION 5. At the time of retirement, he or she
9 shall receive a partial lump sum distribution as a single
10 payment not to exceed the sum of 24 months of the maximum
11 monthly retirement allowance the member could receive. This
12 option may be elected in addition to the election of another
13 option under this subsection and the further reduced monthly
14 retirement allowance shall be calculated in accordance with
15 the selected option. This option shall not be available to a
16 member who is receiving a disability retirement.

17 "(k) Should any beneficiary be restored to active
18 service, his or her retirement allowance shall be suspended
19 until he or she again withdraws from service and, he or she
20 shall not again become a member, nor shall he or she make
21 contributions; except, that should such beneficiary who has
22 been restored to active service continue in service for a
23 period of two or more years from the date of his or her
24 reentry into active service, he or she may request the Board
25 of Control to allow him or her to again become a member of the
26 retirement system. The Board of Control may grant the request
27 for restoration to membership; provided, that such beneficiary

1 whose retirement allowance has been suspended shall repay to
2 the system all moneys received by him or her as benefits
3 during any period subsequent to the date of his or her reentry
4 into active service; provided further, that he or she shall
5 make a contribution equal to the amount he or she would have
6 contributed had he or she been a member during the period of
7 his or her restoration to active service on a suspended
8 allowance basis, together with the interest which would have
9 been credited to the contributions on account of such period
10 of restoration up to the date such contribution is made.

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

1 retired member under the provisions of any such optional
2 benefit shall receive any increase in such payments under this
3 subsection.

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

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

26 "(m) Notwithstanding any other provisions of this
27 section to the contrary, when a designated beneficiary for a

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

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

25 "(o) Any future act to increase the retirement age
26 for Tier II plan members above the age of 62 shall require a

1 two-thirds vote of the elected membership of each house of the
2 Legislature.

3 "§36-27-16.

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

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

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

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

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

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

3 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

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

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

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

1 at age 65 by twice the contributions which he or she would
2 have made during the period of prior service with which he or
3 she is credited had the system been in operation and had he or
4 she contributed thereunder; except, that in case of a state
5 policeman who has completed 20 years of creditable service as
6 a state policeman who retired after age 56 but prior to age
7 60, an additional pension, if he or she has a prior service
8 certificate in full force and effect, which shall be equal to
9 the annuity which would have been provided at age 60, but
10 which shall not exceed an annuity allowable at age 60 by twice
11 the contributions which he or she would have made during the
12 period of prior service with which he or she is credited had
13 the system been in operation and had he or she contributed
14 thereunder.

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

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

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

26 "3. An additional pension, if he or she has a prior
27 service certificate in full force and effect, which shall be

1 equal to the annuity which would have been provided at the age
2 of retirement, but which shall not exceed an annuity allowable
3 at the age of retirement plus four years by twice the
4 contributions which he or she would have made during the
5 period of prior service with which he or she is credited had
6 the system been in operation and had he or she contributed
7 thereunder. In lieu of a determination of the actual
8 compensation of a member that was received during such prior
9 service, the Board of Control may use for the purpose of this
10 article the compensation rate which, if it had progressed with
11 the rates of salary increase shown in the tables as prescribed
12 in subsection (n) of Section 36-27-23, would have resulted in
13 the same average salary of the member for the five years
14 immediately preceding the date of establishment as the records
15 show the member actually received.

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

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

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

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

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

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

1 of creditable service which he or she would have had if he or
2 she had remained in service to age 60.

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

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

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

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

22 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;
23 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

24 "a. Upon application of a Tier I plan member in
25 service or of his or her employer, any member who has had 10
26 or more years of creditable service who becomes disabled may
27 be retired on a disability retirement allowance by the Board

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

17 "b. Without regard to the number of years of
18 creditable service, a member employed as a state policeman, a
19 municipal police officer or a deputy sheriff, or a member
20 employed as a state, municipal, or county firefighter who is
21 not covered through his or her current employer under the
22 United States Social Security Act, who as a result of his or
23 her employment, in the line of duty and not as a result of his
24 or her own misconduct, shall become permanently and totally
25 disabled to the extent that he or she cannot perform his or
26 her duties or duties of a less strenuous nature, as an
27 employee of the State of Alabama or as an employee of an

1 employer participating under the provisions of Section
2 36-27-6, shall be retired on a disability retirement
3 allowance, not less than 30 nor more than 90 days next
4 following the date of filing of such application, provided
5 that the medical board, after a medical examination of such
6 member shall certify that such member is mentally or
7 physically incapacitated for the further performance of duty,
8 that such incapacity is likely to be permanent, and that such
9 member should be retired.

10 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

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

1 attained age 56; otherwise, he or she shall receive a
2 disability retirement allowance which shall consist of:

3 "1. An annuity which shall be the actuarial
4 equivalent of his or her accumulated contributions at the time
5 of his or her retirement;

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

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

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

20 "2. If he or she became a member before October 1,
21 1965, \$54.00 multiplied by the number of years of his or her
22 creditable service not in excess of 25 years.

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

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

10 "2. If he or she became a member before October 1,
11 1965, \$64.80 multiplied by the number of years of his or her
12 creditable service not in excess of 25 years.

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

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

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

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

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

1 that these requirements relative to the medical examination
2 shall not apply in the case of a state policeman retired for
3 disability and who has attained age 52 if he or she is a Tier
4 I plan member or in the case of a state policeman or a
5 correctional officer, firefighter, or law enforcement officer
6 as defined in Section 36-27-59 with at least ten years of
7 creditable service as a correctional officer, firefighter, or
8 law enforcement officer retired for disability who has
9 attained age 56 if he or she is a Tier II plan member. Should
10 the medical board report and certify to the Board of Control
11 that a disability beneficiary who is a Tier I plan member is
12 engaged in or is able to engage in a gainful occupation paying
13 more than the difference between his or her retirement
14 allowance and his or her average final compensation and should
15 the Board of Control concur in such report, then the amount of
16 his or her pension shall be reduced to an amount which,
17 together with his or her annuity and the amount earnable by
18 him or her shall equal the amount of his or her average final
19 compensation. Should his or her earning capacity be later
20 changed, the amount of his or her pension may be further
21 modified; provided, that the new pension shall not exceed the
22 amount of the pension originally granted nor an amount which,
23 when added to the amount earnable by the beneficiary, together
24 with this annuity exceeds the amount of his or her average
25 final compensation.

26 "Should the medical board report and certify to the
27 Board of Control that a disability beneficiary who is a Tier

1 II plan member has the capacity to engage in regular and
2 substantial gainful employment, the Board of Control shall
3 discontinue the beneficiary's retirement allowance until the
4 beneficiary is otherwise eligible for service retirement.

5 "(c) Disposition of contributions and allowances
6 upon death, etc., of member.

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

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

1 3, as set forth in subsection (d) of this section or,
2 alternatively, if the surviving spouse or other designee
3 desires, he or she may choose to receive, in lieu of the
4 allowance provided under Option 3, the accumulated
5 contributions of the member plus an amount equal to the
6 accumulated contributions of the member not to exceed
7 \$5,000.00 or the accumulated contributions of the member plus
8 the benefit provided by Section 36-27B-3 if a benefit is
9 payable under such section;

10 "(3) In case of the death of a Tier I plan member
11 not eligible for service retirement, after completion of 25
12 years of creditable service, an allowance shall be paid to the
13 surviving spouse, or to such other person who the member shall
14 have designated, in an amount that would have been payable if
15 the member had retired for disability immediately prior to his
16 or her death and had elected Option 3 as set forth in
17 subsection (d) of this section or, alternatively, if the
18 surviving spouse or other designee desires, he or she may
19 choose to receive, in lieu of the allowance provided under
20 Option 3, the accumulated contributions of the member plus an
21 amount equal to the accumulated contributions of the member
22 not to exceed \$5,000.00 or the accumulated contributions of
23 the member plus the benefit provided by Section 36-27B-3 if a
24 benefit is payable under such section;

25 "(4) Upon the death of a member on account of whom
26 no survivor allowance is payable under subdivisions (2) or (3)
27 of this subsection, the accumulated contributions of the

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

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

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

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

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

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

13 "(5) OPTION 5. At the time of retirement, he or she
14 shall receive a partial lump sum distribution as a single
15 payment not to exceed the sum of 24 months of the maximum
16 monthly retirement allowance the member could receive. This
17 option may be elected in addition to the election of another
18 option under this subsection and the further reduced monthly
19 retirement allowance shall be calculated in accordance with
20 the selected option. This option shall not be available to a
21 member who is receiving a disability retirement.

22 "(e) Effect of return to active service. Should any
23 beneficiary be restored to active service, his or her
24 retirement allowance shall be suspended until he or she again
25 withdraws from service and he or she shall not again become a
26 member of the retirement system nor shall he or she make
27 contributions; except, that should such beneficiary who has

1 been restored to active service continue in service for a
2 period of two or more years from the date of his or her
3 reentry into active service, he or she may request the Board
4 of Control to allow him or her to again become a member of the
5 retirement system. The Board of Control may grant the request
6 for restoration to membership; provided, that such beneficiary
7 whose retirement allowance has been suspended shall repay to
8 the system all moneys received by him or her as benefits
9 during any periods subsequent to the date of his or her
10 reentry into active service and shall make a contribution
11 equal to the amount he or she would have contributed had he or
12 she been a member during the period of his or her restoration
13 to active service on a suspended allowance basis together with
14 the interest which would have been credited to the
15 contributions on account of such period of restoration up to
16 the date such contribution is made.

17 "(f) (1) REDETERMINATION, ETC., OF CERTAIN
18 ALLOWANCES. All retirement allowance payments due on or after
19 October 1, 1975, to members who retired prior to that date
20 shall be redetermined as if the provisions of this section in
21 effect on October 1, 1975, were in effect at the time the
22 member retired. Anything in this article to the contrary
23 notwithstanding, the annual retirement allowance of any member
24 not employed as a state policeman who retired on or before
25 January 1, 1956, shall not be less than \$79.20 multiplied by
26 the number of years of his or her creditable service not in
27 excess of 30 years in the case of service retirement of \$59.40

1 multiplied by the number of years of his or her creditable
2 service not in excess of 30 years in the case of disability
3 retirement. Any increase provided in the retirement allowance
4 payment under this subdivision for a member who retired under
5 the provisions of any optional benefit elected pursuant to
6 subsection (d) of this section shall accrue only to the
7 retired member, and no person designated to receive any
8 payments after the death of a retired member under the
9 provisions of any such optional benefit shall receive any
10 increase in such payments under this subdivision.

11 Notwithstanding, any member who retired prior to October 1,
12 1975, and who chose either Option 2 or Option 3 may elect to
13 receive a reduced allowance and to stipulate that the
14 actuarial equivalent of the increase in his or her retirement
15 allowance, which became effective on that date, be ascribed to
16 his or her designated beneficiary; provided, that such member
17 shall clearly express this intention by filing a written
18 application to the effect with the Secretary-Treasurer of the
19 Employees' Retirement System of Alabama prior to October 1,
20 1976.

21 "(2) Any person who, prior to October 1, 1963, was
22 in receipt of a benefit pursuant to Act No. 376, approved
23 November 6, 1959, but was not a member of the system at the
24 time of retirement shall not be entitled to receive an annual
25 retirement allowance from the system, effective October 1,
26 1971, as follows:

1 "a. If such person was retired on or before January
2 1, 1956, an amount equal to \$79.20 multiplied by the number of
3 years of his or her creditable service not in excess of 30
4 years.

5 "b. If such person was retired after January 1,
6 1956, an amount equal to \$72.00 multiplied by the number of
7 years of his or her creditable service not in excess of 25
8 years.

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

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

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

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

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

1 Section 2. In order to allow time for the Retirement
2 Systems of Alabama and the Department of Finance to implement
3 the lump-sum option provided in Section 1, Option 5, as
4 provided in Section 1, shall become available to all members
5 who have a retirement date on or after October 1, 2018.

6 Section 3. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.