

1 HB533  
2 149152-5  
3 By Representative Wren (N & P)  
4 RFD: Montgomery County Legislation  
5 First Read: 02-APR-13

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to the Employees' Retirement System of the  
14 City of Montgomery; to combine, amend, and restate Act  
15 2009-473, 2009 Regular Session (Acts 2009, p. 839), as  
16 amended, to change the retirement age, creditable service  
17 requirements, distribution options, employee contributions,  
18 and benefits for certain employees who become members of the  
19 system on or after October 1, 2013; to implement a new cash  
20 balance plan for certain employees who become members of the  
21 system on or after October 1, 2013, to provide certain  
22 employees who were members of the system before October 1,  
23 2013, an option to elect to participate in the new cash  
24 balance plan, to authorize the board, with the mayor's  
25 approval, to increase the number of years of creditable  
26 service to qualify for a disability retirement allowance or  
27 eliminate the disability retirement under any or all of the

1 retirement plans; to eliminate certain historical information  
2 no longer necessary; to clarify the board's authority to hire  
3 outside legal advisors and auditors; to provide minimum  
4 qualifications for the auditors hired by the system; to add  
5 provisions required to comply with the Internal Revenue Code;  
6 to update the method of calculating the contributions by the  
7 city; to eliminate certain provisions dealing with mandatory  
8 retirement; and to define and redefine certain terms  
9 applicable to the system.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Definitions. The following words and  
12 phrases as used in this act, unless a different meaning is  
13 plainly required by the context, shall have the following  
14 meanings:

15 (1) "System" shall mean the Employees' Retirement  
16 System of the City of Montgomery, as defined in Section 2.

17 (2) "City" shall mean the City of Montgomery,  
18 Alabama, with respect to its employees, and any board or  
19 boards of the city now existing or hereafter created and duly  
20 authorized by the council to participate in the system with  
21 respect to its employees.

22 (3) "Council" shall mean the duly elected Council  
23 Members of the City (hereinafter sometimes referred to as  
24 Councilors).

25 (4) "Board" shall mean the board of trustees of the  
26 system provided for in Section 5B to administer the system,  
27 but shall not include the investment trustee.

1           (5) "Medical Board" shall mean the board of  
2 physicians provided for in Section 5D.

3           (6) "Employee" shall mean any regular and permanent  
4 officer or employee of the city, whether full time or part  
5 time, including elected or appointed officials, the Mayor and  
6 councilors, and the regular employees of any board or  
7 commission of the city other than the Water Works and Sanitary  
8 Sewer Board, and any person or persons employed by the city  
9 and performing the duties of a regular employee in the service  
10 of the city, but shall not include anyone who is paid on a fee  
11 or commission basis.

12           (7) "Member" shall mean any person included in the  
13 membership of the system as provided in Section 3.

14           (8) "Service" shall mean service in the employment  
15 of and paid for by the city.

16           (9) "Membership service" shall mean service as a  
17 member for which credit is allowable as provided in subsection  
18 (1) of Section 4.

19           (10) "Creditable service" shall mean total  
20 membership service plus any prior service allowed under this  
21 act.

22           (11) "Retirement allowance" shall mean annual  
23 payments, payable in monthly installments, continuing to the  
24 last payment prior to death.

25           (12) "Beneficiary" shall mean any person in receipt  
26 of a retirement allowance or other benefit as provided by the  
27 system.

1           (13) "Accumulated contributions" shall mean the sum  
2 of the balance to a member's credit in the annuity savings  
3 account as of December 31, 1968, plus all the amounts deducted  
4 thereafter from his or her compensation and credited to his or  
5 her individual account.

6           (14) "Earnable compensation" shall mean the full  
7 rate of compensation that would be payable to a member if he  
8 or she worked the full normal working time. Earnable  
9 compensation shall not include overtime pay. In cases where  
10 compensation includes maintenance, the board shall fix the  
11 value of the part of compensation not paid in money.  
12 Compensation in excess of \$200,000.00 shall be disregarded for  
13 all purposes under this act. The amount shall be adjusted at  
14 the same time and in the manner as permitted under Section  
15 401(a) (17) of the Internal Revenue Code.

16           (15) "Average final compensation" shall mean (a)  
17 with respect to members of the 20-Year Plan and the 25-Year  
18 Plan, the earnable compensation of a member during the highest  
19 12 consecutive months of the 60-month period immediately  
20 preceding his or her retirement date and (b) with respect to  
21 members of the Group II Age 62 Plan, the earnable compensation  
22 of a member during the highest 36 consecutive months of the  
23 120-month period immediately preceding his or her retirement  
24 date. If at any time prior to or during the 60-month or  
25 120-month period, as applicable, immediately preceding his or  
26 her retirement date, a member served in a part-time capacity,  
27 average final compensation, creditable service, and the

1 retirement allowance shall be determined in accordance with  
2 the rules and regulations adopted by the board.

3 (16) "Equivalent actuarial value" shall mean equal  
4 value when computed (a) for purposes of determining the  
5 service retirement allowance under subsection (1)(b)(iii) of  
6 Section 6, the applicable mortality table as specified under  
7 Section 417(e) of the Internal Revenue Code and the interest  
8 rate used for interest credits for the applicable year and (b)  
9 for other purposes, the regular interest rate and mortality  
10 tables last adopted by the board.

11 (17) "Operative date" shall mean the date the system  
12 began operation as provided in Section 2.

13 (18) "Investment trustee" shall mean each of the  
14 banks or other recognized advisory service or services that  
15 the board of trustees selects. Each investment trustee shall  
16 have the powers and duties prescribed by Section 5A. The board  
17 of trustees may terminate the services of any investment  
18 trustee upon thirty (30) days' written notice to the trustee,  
19 and each trustee may likewise terminate its services upon  
20 thirty (30) days' written notice to the board. After receipt  
21 of the notice by either party the investment trustee concerned  
22 shall make an accounting within forty-five (45) days of the  
23 receipt of the notice.

24 (19) "ERIP option" shall mean the optional election  
25 available to a member pursuant to Section 15.

26 (20) "ERIP calculation date" shall mean the first  
27 day of the ERIP election period.

1           (21) "ERIP election period" shall mean the period of  
2 exactly one (1), two (2) or three (3) years ending on a  
3 member's actual retirement date. The ERIP election period  
4 shall include only years actually worked by the member after  
5 the ERIP eligibility date plus any buy-back years for military  
6 service.

7           (22) "ERIP eligibility date" shall mean the date a  
8 member is credited with 20 or more years of creditable service  
9 or 25 or more years of creditable service, as applicable  
10 pursuant to subsection (1) of Section 6, including buy-back  
11 years purchased prior to January 1, 2005, but excluding  
12 buy-back years purchased on or after January 1, 2005, or years  
13 earned prior to a member's rehire date unless membership in  
14 the system was retained until the rehire date.

15           (23) "Group I 20-Year Plan" shall mean the  
16 retirement plan for each member in Group I or I-A who (a)  
17 became a member of the system prior to October 1, 2005, (b)  
18 did not elect to participate in the Group I 25-Year Plan, and  
19 (c) does not elect to participate in the Group I Cash Balance  
20 Plan.

21           (24) "Group I 25-Year Plan" shall mean the  
22 retirement plan for each member in Group I or I-A who (a)  
23 became a member of the system on or after October 1, 2005, but  
24 before October 1, 2013, or elected to participate as if he or  
25 she became a member on or after October 1, 2005, but before  
26 October 1, 2013, and (b) does not elect to participate in the  
27 Group I Cash Balance Plan.

1 (25) "Group I Cash Balance Plan" shall mean the  
2 retirement plan for each member in Group I or I-A who becomes  
3 a member of the system on or after October 1, 2013, or elects  
4 to participate as if he or she became a member of the system  
5 on or after October 1, 2013.

6 (26) " Group II 20-Year Plan" shall mean the  
7 retirement plan for each member in Group II who (a) became a  
8 member of the system prior to October 1, 2005, and (b) did not  
9 elect to participate in the Group II 25-Year Plan.

10 (27) "Group II 25-Year Plan" shall mean the  
11 retirement plan for each member in Group II who (a) became a  
12 member of the system on or after October 1, 2005, but before  
13 October 1, 2013, or (b) elected to participate as if he or she  
14 became a member on or after October 1, 2005, but before  
15 October 1, 2013.

16 (28) " Group II Age 62 Plan" shall mean the  
17 retirement plan for each member in Group II who becomes a  
18 member of the system on or after October 1, 2013.

19 (29) "20-Year Plan" shall mean the Group I 20-Year  
20 Plan and the Group II 20-Year Plan collectively.

21 (30) "25-Year Plan" shall mean the Group I 25-Year  
22 Plan and the Group II 25-Year Plan collectively.

23 (31) "Early retirement factor" shall mean the early  
24 retirement factor set forth in subsection (1)(c)(iii) of  
25 Section 6.

26 (32) "Annuity starting date" shall mean, with  
27 respect to a person, the first day of the first period for



1 which an amount is paid as an annuity, or, in the case of a  
2 benefit not payable in the form of an annuity, the first day  
3 on which all events have occurred which entitles the person to  
4 the benefit.

5 (33) "Pre-cash balance accumulated contributions"  
6 shall mean with respect to an elective cash balance plan  
7 member, the accumulated contributions credited to his or her  
8 individual account while a member of the applicable previous  
9 plan.

10 (34) "Cash balance accumulated contributions" shall  
11 mean with respect to a member in the Group I Cash Balance  
12 Plan, the accumulated contributions credited to his or her  
13 individual account while a member of the Group I Cash Balance  
14 Plan.

15 (35) "Cash balance account" shall mean the  
16 hypothetical account established for a member in the Group I  
17 Cash Balance Plan to receive pay credits and interest credits.

18 (36) "Pay credits" shall mean the allocations made  
19 to a member's cash balance account pursuant to subsection  
20 (1)(d) of Section 6.

21 (37) "Interest credits" shall mean the interest that  
22 is credited to a person's cash balance account pursuant to  
23 subsection (1)(f) of Section 6. The interest rate used for  
24 accumulating a member's cash balance account as determined by  
25 the board shall not exceed a market rate of return, and  
26 regardless of the rate elected, an interest credit of less  
27 than zero shall in no event result in the balance being less

1 than the aggregate amount of contributions credited to the  
2 accounts.

3 (38) "Initial election date" shall mean with respect  
4 to a member, the earlier of (a) the date that the member  
5 elects to become a member of the Group I Cash Balance Plan or  
6 (b) the latest date for an initial election to become a member  
7 of the Group I Cash Balance Plan as set by the board.

8 (39) "Pre-election frozen benefit" shall mean the  
9 service retirement allowance or vesting retirement allowance,  
10 as applicable, a person would have received under the  
11 applicable previous plan based on his or her average final  
12 compensation and years of creditable service as of the date he  
13 or she becomes a member in the Group I Cash Balance Plan.

14 (40) "Applicable previous plan" shall mean with  
15 respect to an elective cash balance plan member, the plan that  
16 the person was a member of immediately prior to electing to  
17 become a member of the Group I Cash Balance Plan.

18 (41) "Regular interest" shall mean interest at the  
19 per centum rate or rates compounded annually as shall be  
20 determined by the board from time to time.

21 (42) "Elective cash balance plan member" shall mean  
22 a member that is provided the option and elects to become a  
23 member in the Group I Cash Balance Plan in accordance with  
24 subsection (7) of Section 3.

25 (43) The masculine pronoun shall include the  
26 feminine pronoun.

27 Section 2. Name and Operative Date.

1           The board shall be responsible for the management of  
2 the system for the purpose of providing retirement allowances  
3 and other benefits under the provisions of this act for  
4 employees of the city. The system shall be a continuation of  
5 the retirement system established under Ordinance No. 1659, as  
6 amended prior to the effective date of this act, as the  
7 Employees' Retirement System of the City of Montgomery, under  
8 which name all of its business shall continue to be  
9 transacted, all of its funds shall continue to be invested,  
10 all warrants for money shall continue to be drawn and all  
11 payments made, and all of its cash and securities and other  
12 property shall continue to be held as hereinafter provided.  
13 The operative date of the system shall continue to be the  
14 first day of June, 1959.

15           Section 3. Membership.

16           (1) Any person who is a member of the system at the  
17 time of the adoption of this act shall be a member of the  
18 system and in addition any person becoming an employee  
19 thereafter shall become a member of the system as a condition  
20 of his or her employment. Provided however, that any person  
21 who shall have become a member of and participate in the  
22 retirement program of the Employees Retirement System of the  
23 State of Alabama owing to the election of the Water Works and  
24 Sanitary Sewer Board of the city to become a participating  
25 employer respecting the state retirement program shall  
26 thereafter cease to be a member of the system. Any employee  
27 who is elected as a member of the council and who is a member

1 of the system at the time of the election may elect to  
2 terminate his or her membership in the system at the time of  
3 his or her election by filing with the board on a form  
4 prescribed by the board a notice of his or her election to  
5 terminate his or her membership in the system, and a duly  
6 executed waiver of all prospective benefits which would  
7 otherwise inure to him or her as a member, the notice to be  
8 filed not later than the day on which he or she assumes his or  
9 her duties as a member of the city council. Any person who is  
10 elected as a member of the city council and who is not a  
11 member at the time of his or her election shall become a  
12 member unless he or she elects in the manner set forth above  
13 not to become a member.

14 (2) Any employee whose membership in the system is  
15 contingent on his or her own election and who elects not to  
16 become a member may thereafter apply for and be admitted to  
17 membership.

18 (3) It shall be the duty of the city's Finance  
19 Department, and the corresponding departments of the city's  
20 Airport Authority, to submit to the board a statement showing  
21 the name, title, compensation, duties, date of birth and  
22 length of service of each member, and any information  
23 regarding other employees as the board may require, and on the  
24 basis thereof the board shall classify each member in one of  
25 the following groups:

26 Group I. General municipal employees.

27 Group I-A. Airport Employees.

1           Group II. Members of the Fire Department and the  
2 Police Department of the city, trained in fire fighting or  
3 police work and actively engaged in such work or subject to  
4 call for such services.

5           Upon written request, the board shall certify to the  
6 member the group in which he or she is placed and the date of  
7 his or her admission to membership therein. When the duties of  
8 a member so require, the board may classify him or her in  
9 another group and shall certify to him or her the group to  
10 which he or she has been reclassified, except that no member  
11 having 15 or more years of service in one class may be so  
12 reclassified.

13           (4) Should any member be absent from service more  
14 than five consecutive years, or should he or she withdraw his  
15 or her accumulated contributions or die or retire under the  
16 provision of this act, he or she shall thereupon cease to be a  
17 member.

18           (5) Participants who were members of the system  
19 prior to October 1, 2005, were entitled to elect to have their  
20 then current service retirement allowance frozen and  
21 participate in the 25-Year Plan, provided that they had three  
22 or more years remaining until they attained the mandatory  
23 retirement age under the 25-Year Plan. Members who elected  
24 shall earn benefits prospectively for creditable service  
25 completed on and after October 1, 2005, or the first day of  
26 the next month following the filing of their election,  
27 whichever date is later, on the same basis as employees who

1 become members on or after that date; and, for creditable  
2 service completed prior to October 1, 2005, or prior to the  
3 first day of the next month following the filing of their  
4 election, as the case may be, the electing member shall be  
5 entitled at retirement to such benefits for such creditable  
6 service based on the retirement allowance formula provided for  
7 employees who became members prior to October 1, 2005, and did  
8 not elect to participate in the 25-Year Plan.

9 (6) Any employee who became a member prior to  
10 October 1, 2005, and did not elect to participate in the  
11 25-Year Plan, upon the attainment of 25 years of creditable  
12 service may elect, during the three-month period immediately  
13 next following the attainment of 25 years of creditable  
14 service, to participate thereafter and prospectively in the  
15 25-Year Plan. Members desiring to so elect must file with the  
16 board a written election on forms, and pursuant to rules and  
17 regulations, adopted by the board, prior to the expiration of  
18 the three-month period next following the member's attainment  
19 of 25 years of creditable service. Members who so elect shall  
20 be entitled at retirement to a retirement allowance for each  
21 year of creditable service in excess of 25 based on the  
22 benefit formula applicable to the member under the 25-Year  
23 Plan. The retirement allowance for each year of the initial 25  
24 years of creditable service shall be based on the benefit  
25 formula applicable to the member under the 20-Year Plan.  
26 Otherwise, an electing member shall thereafter participate in

1 the 25-Year Plan on the same basis as if the member were a  
2 post-October 1, 2005, employee.

3 (7) Each member in Group II that becomes a member of  
4 the system on or after October 1, 2013, including a previous  
5 member who ceased to be a member of the system and is  
6 reemployed by the city, shall be a member in the Group II Age  
7 62 Plan. Each member in Group I or I-A that becomes a member  
8 of the system on or after October 1, 2013, including a  
9 previous member who ceased to be a member of the system and is  
10 reemployed by the city, shall be a member in the Group I Cash  
11 Balance Plan. The effective date of participation for such  
12 persons in the Group I Cash Balance Plan shall be the date  
13 they become a regular and permanent officer or employee of the  
14 city, after the completion of any probationary period. The  
15 following shall have the option to elect to become a member in  
16 the Group I Cash Balance Plan: (1) each member in Group I or  
17 I-A that became a member of the system prior to October 1,  
18 2013, and remains in active service through the initial  
19 election date, (2) each member that became a member of the  
20 system prior to October 1, 2013, ceased to be an employee  
21 prior to the initial election date, and subsequently returns  
22 to the status of a Group I or I-A employee while still a  
23 member of the system, and (3) each member that is reclassified  
24 as a Group I or I-A member after the initial election date.  
25 The elections shall be made in accordance with the procedures,  
26 rules, and regulations, and the time periods established by  
27 the board. If an eligible member fails to make a proper

1 election to become a member in the Group I Cash Balance Plan  
2 in accordance with the procedures, rules, and regulations and  
3 before the deadline established by the board, the member shall  
4 remain in the 20-Year Plan or 25-Year Plan, as applicable. The  
5 effective date of participation for a member electing to be a  
6 member in the Group I Cash Balance Plan shall be the date  
7 established by the board. All elections are irrevocable.

8 Section 4. Creditable Service.

9 (1) Each member shall receive membership service  
10 credit for all service rendered while a member of the system  
11 since he or she became a member, or since he or she last  
12 became a member in the event of a break in his or her  
13 membership, on account of which contributions are made by the  
14 member.

15 (2) Each member claiming prior service credit shall  
16 file a detailed statement of all service rendered by him or  
17 her prior to the date for which he or she is eligible to claim  
18 prior service credit, and other facts as the board may require  
19 for the proper operation of the system. The board shall fix  
20 and determine by appropriate rules and regulations how much  
21 service, if any, in any year is equivalent to a year of  
22 service, but in no case shall more than one year of service be  
23 creditable for all service in one calendar year, nor shall the  
24 board allow credit as service for any period of more than one  
25 month's duration during which the employee was absent without  
26 pay. The board shall verify, as soon as practicable after the  
27 filing of the statements of service, the service therein



1 claimed. Except as expressly limited herein, a member claiming  
2 prior service credit must claim all eligible prior service.

3 (3) Creditable service at retirement on which the  
4 retirement allowance of a member shall be based shall consist  
5 of his or her total membership service plus any prior service  
6 verified by the board pursuant to subsection (2) of this  
7 section.

8 (4) Anything in this act to the contrary  
9 notwithstanding, credit for any period of absence due to  
10 compulsory service in the armed forces of the United States  
11 shall be allowed as service credit as if such service had been  
12 service as an employee of the city, provided the employee  
13 returns to city service within ninety days after becoming  
14 entitled to an honorable discharge from the armed forces or  
15 within ninety days after hospitalization continuing after  
16 discharge for a period of not more than one year; and,  
17 provided further that the employee contributes and pays to the  
18 system a sum equal to the total contribution which he or she  
19 would have made had he or she remained in service during the  
20 leave less any amount actually contributed by the member for  
21 such period, as determined in accordance with rules and  
22 regulations adopted by the board. In the case of a death  
23 occurring on or after January 1, 2007, if a member dies while  
24 performing qualified military service (as defined in Section  
25 414(u) of Internal Revenue Code), the survivors of the member  
26 are entitled to any additional death benefits (other than  
27 benefit accruals relating to the period of qualified military

1 service) provided under the retirement plan for which he or  
2 she was a member as if the member had resumed and then  
3 terminated employment on account of death. Anything herein to  
4 the contrary notwithstanding, credit for military leave shall  
5 be granted in compliance with all applicable federal laws,  
6 rules and regulations.

7 (5) Notwithstanding any other provisions of this  
8 act, an active and contributing member of the 20-Year Plan,  
9 the 25-Year Plan, or the Group II Age 62 Plan with prior  
10 employment with the State of Alabama as a state employee or as  
11 an employee of the public education system under the State  
12 Board of Education or an institution of higher education may  
13 purchase up to four years of creditable service in the system  
14 for the prior employment with the State of Alabama if the  
15 member claiming the prior employment credit has at least 10  
16 years of contributing membership service credit, exclusive of  
17 military service credit, in the system and the member pays to  
18 the system prior to his or her date of retirement from active  
19 service a sum, for each year or partial year of service  
20 purchased, equal to the total contribution which he or she and  
21 the city would have made during the period for which he or she  
22 is claiming credit. The total contribution will be based on  
23 the annual income of the member at the time of payment and the  
24 city's actuarial rate at the time of payment. A member is  
25 prohibited from purchasing credit under the aforementioned  
26 provisions for any prior service for which he or she has  
27 received credit toward a benefit from any other public

1 retirement system except the federal Social Security program.  
2 The member has the responsibility of providing a statement  
3 from the Retirement Systems of Alabama that the member is not  
4 eligible for any state retirement benefits for the prior  
5 employment for which he or she is purchasing service credit  
6 and for wage statements covering the time period of the  
7 service credit being purchased.

8 (6) Any employee whose membership in the system was  
9 contingent upon his or her own election and who elected not to  
10 become a member, may apply for and be admitted to membership  
11 with all prior service credit at any time, provided the  
12 employee pays to the system a sum equal to the total  
13 contributions which he or she would have made as a member  
14 during his or her prior service; provided that the prior  
15 service credit shall not apply if the employee becomes a  
16 member of the Group I Cash Balance Plan.

17 (7) Any member of the 20-Year Plan, the 25-Year  
18 Plan, or the Group II Age 62 Plan, who at one time worked as a  
19 nonmember may receive credit for prior service and for the  
20 years worked as a nonmember, provided the member pays to the  
21 system, a sum equal to the total contributions which he or she  
22 would have made as a member during his or her prior service

23 (8) Any member who ceased to be a member as a result  
24 of being absent from service for more than five consecutive  
25 years or as a result of withdrawing his or her accumulated  
26 contributions and thereafter becomes a contributing member of  
27 the 20-Year Plan, the 25-Year Plan, or the Group II Age 62

1 Plan shall be allowed credit for the previous service,  
2 provided he or she pays the system a sum equal to the total  
3 contribution he or she has withdrawn.

4 (9) Any law or part of law relating to the payment  
5 of interest on contributions as a prerequisite to the granting  
6 of credit for prior service under the system notwithstanding,  
7 any eligible employee, member or retired member who claims  
8 such prior service (including prior service claimed under  
9 subsections (6), (7), and (8) but excluding prior service  
10 claimed under subsections (4) and (5)) shall pay into the  
11 system in addition to the contributions required, interest of  
12 eight percent, compounded annually, on the contributions, as a  
13 prerequisite to the granting of the service credit. Interest  
14 shall be calculated in accordance with the rules and  
15 regulations established by the board.

16 (10) Anything in this act to the contrary  
17 notwithstanding, the employer cost for the granting of any  
18 service credit granted under the provisions of this act shall  
19 become the continuing liability of the employer for whom the  
20 service was rendered.

21 Section 5. Administration.

22 A. Investment Trustee.

23 Each investment trustee shall be a state or  
24 federally chartered bank with not less than \$500,000,000 in  
25 assets, bonded for not less than the amount of the board's  
26 assets held from time to time, and shall have the following  
27 powers and duties (but no other):

1           (1) To retain inventoried assets delivered to it by  
2 the board so long as the retention appears advisable,  
3 including the right to retain investments previously made in  
4 its stock, if any, by the board.

5           (2) To sell, exchange, assign, transfer and convey  
6 any security or property, real or personal (whether in the  
7 original inventory or acquired by purchase or otherwise), at  
8 public or private sale, at the time and price and upon the  
9 terms and conditions (including credit) as it may determine.

10          (3) To invest and reinvest in such stocks, bonds,  
11 and other securities and properties as it may deem advisable,  
12 including preferred stocks, common stocks, debentures, and  
13 unsecured obligations, undivided interests, interests in  
14 investment trusts, mutual funds, legal and discretionary  
15 common trust funds, and leases and property either inside or  
16 outside of Alabama.

17          (4) To register and carry any property in its own  
18 name or in the name of its nominee or to hold it unregistered  
19 but without thereby increasing or decreasing its liability as  
20 fiduciary.

21          (5) To vote in person or by proxy any stock or  
22 securities held and to grant the proxies and powers of  
23 attorney to the person or persons as it may deem proper. The  
24 board shall have the power to vote in person or by proxy any  
25 stock in each investment trustee.

1           (6) To consent to and participate in any plan for  
2 the liquidation, reorganization, consolidation or merger of  
3 any corporation, any stock or security of which is held.

4           (7) To receive reasonable compensation for its  
5 services either out of the fund administered by each  
6 investment trustee or from the board, the amount or method of  
7 computation and payment to be agreed upon between the board  
8 and each investment trustee.

9           (8) To receive funds or appropriations from the  
10 board or from the city to be held and administered hereunder,  
11 and to have custody of all investments delivered to it,  
12 subject to the directions of the board.

13           (9) To pay to the board on duly authorized vouchers  
14 such funds as may be required to make current monthly payments  
15 of retirement allowances and expenses.

16           (10) To invest and manage all assets delivered to  
17 the trustee by the board and/or city in a professional and  
18 prudent manner and exercising due care.

19           The powers and duties of each investment trustee  
20 shall apply from and after its selection by the board and  
21 delivery of assets to it, and no investment trustee shall have  
22 any duties in reference to or any liabilities for any acts or  
23 failures to act which occurred prior thereto.

24           B. Board of Trustees.

25           (1) Except for the powers and duties prescribed for  
26 the investment trustee, the general administration and the  
27 responsibility for the proper operation of the system and for

1 making effective the provisions of this act are hereby vested  
2 in the board of trustees of the system.

3 (2) The board shall consist of nine voting trustees  
4 as follows: one shall be a member employee in the Police  
5 Department, one shall be a member employee in the Fire  
6 Department, one shall be a member employee classified as a  
7 general municipal employee, three may be either active or  
8 retired members of the retirement system, one shall be a  
9 retired member of the retirement system, and two may or may  
10 not be members of the system. The terms of office of all  
11 trustees so appointed shall be four years.

12 (3) If a vacancy occurs in the office of a trustee,  
13 the vacancy shall be filled for the unexpired term in the same  
14 manner as the office was previously filled.

15 (4) The trustees shall serve without compensation.

16 (5) Each trustee shall, within ten days after his or  
17 her appointment, take an oath of office.

18 (6) Each trustee shall be entitled to one vote. Five  
19 trustees shall constitute a quorum and a vote of a majority of  
20 the trustees present at the meeting where a quorum is present  
21 shall be the act of the board.

22 (7) Subject to the limitations of this act, the  
23 board shall, from time to time, establish rules and  
24 regulations for the administration of the system and for the  
25 transaction of its business, including uniform standards for  
26 determining who are employees within the meaning of this act.

1                   (8) The board shall elect from its membership a  
2 chairman and a vice chairman, and shall appoint a secretary  
3 who may or may not be a member of the board. The board may  
4 employ personnel for secretarial and other service as shall be  
5 required.

6                   (9) The board shall keep in convenient form such  
7 data as shall be necessary for actuarial valuation of the  
8 system and for checking the experience of the system.

9                   (10) The board shall keep a record of all of its  
10 proceedings, which shall be open to public inspection. It  
11 shall submit to the council, annually, a report showing the  
12 fiscal transactions of the system for the preceding year, the  
13 amount of the accumulated cash and securities of the system,  
14 and the last balance sheet indicating the financial condition  
15 of the system as shown by an actuarial valuation of the assets  
16 and liabilities of the system.

17                   C. Legal Advisor

18                   The board shall designate an attorney or attorneys  
19 who shall be the legal advisor of the board on matters  
20 regarding the operation of the system and who shall perform  
21 such other duties as are required in connection therewith or  
22 as may be designated by the board from time to time.

23                   D. Medical Board

24                   The board shall designate a Medical Board of one,  
25 two or three physicians who are not eligible to participate in  
26 the system. The Medical Board shall arrange for and pass upon  
27 all medical examinations required under the provisions of this



1 act, shall investigate all essential statements and  
2 certificates by or on behalf of a member in connection with  
3 application for disability retirement, and shall report in  
4 writing to the board its conclusions and recommendations upon  
5 all the matters referred to it.

6 E. Duties of Actuary

7 (1) The board shall designate an actuary who shall  
8 be the technical advisor of the board on matters regarding the  
9 operation of the system and who shall perform such other  
10 duties as are required in connection therewith.

11 (2) The board shall certify from time to time the  
12 rates of contribution payable by the city and any other  
13 participating employers under the provisions of this act, and  
14 shall adopt for the system from time to time such mortality,  
15 service and other tables as shall be deemed necessary, and on  
16 the basis of such tables and the interest rate adopted by the  
17 board for the purpose of determining the city's and other  
18 participating employers' contributions to the system, the  
19 actuary shall make annually an actuarial valuation of the  
20 assets and liabilities of the system. At least once in each  
21 five-year period the board shall cause an actuarial  
22 investigation to be made into the mortality, service and  
23 compensation experience of the members and beneficiaries of  
24 the system.

25 F. Auditor

26 The board shall designate an independent accounting  
27 firm to perform the audits for the system and other duties as

1 are required in connection therewith or as may be designated  
2 by the board from time to time. The accounting firm performing  
3 an audit for the system must meet the following minimum  
4 standards: meet the independence standards of the American  
5 Institute of Certified Public Accountants and the Department  
6 of Labor and provide evidence of professional liability  
7 insurance satisfactory to the board. In addition, the  
8 accountant in charge of the audit must meet the following  
9 minimum standards: be a certified public accountant in good  
10 standing with the Alabama State Board of Public Accountancy,  
11 have an adequate knowledge of defined benefit plan accounting,  
12 and regularly engage in employee benefit plan audits.

13 Section 6. Benefits.

14 (1) Service Retirement Allowance.

15 (a) The minimum service retirement age shall be as  
16 follows:

17 (i) For a member in the Group I 20-Year Plan, the  
18 age at which he or she completes 20 years of creditable  
19 service or age 65, whichever occurs first.

20 (ii) For a member in the Group II 20-Year Plan, the  
21 age at which he or she completes 20 years of creditable  
22 service or age 62, whichever occurs first.

23 (iii) For a member in Group I 25-Year Plan, the age  
24 at which he or she completes 25 years of creditable service or  
25 age 62, whichever occurs first.

1           (iv) For a member in the Group II 25-Year Plan, the  
2 age at which he or she completes 25 years of creditable  
3 service or age 55, whichever occurs first.

4           (v) For a member in the Group II Age 62 Plan the age  
5 at which he or she completes 25 years of creditable service or  
6 age 55 with at least 10 years of creditable service, whichever  
7 occurs first.

8           (vi) For a member in the Group I Cash Balance Plan,  
9 the age at which he or she completes 25 years of creditable  
10 service or age 62, whichever occurs first; provided, however,  
11 that with respect to an elective cash balance plan member with  
12 a pre-election frozen benefit attributable to the Group I  
13 20-Year Plan, the minimum service retirement age for such  
14 pre-election frozen benefit shall be the age at which he or  
15 she completes 20 years of creditable service or age 65,  
16 whichever occurs first.

17           Any member in service who has attained his or her  
18 minimum service retirement age shall be retired by the board  
19 on a service retirement allowance upon his or her written  
20 application setting forth at what time not less than 30 nor  
21 more than 60 days next following the execution and filing  
22 thereof, he or she desires to be retired, notwithstanding that  
23 during the period of notification he or she may have separated  
24 from service. The member shall be entitled to such retirement  
25 allowance whether he or she voluntarily separates from service  
26 or is dismissed for cause or for any other reason. In the  
27 event the member is dismissed for cause or for any other

1 reason, he or she shall be entitled to make application for  
2 and receive the retirement allowance hereinabove provided for  
3 upon his or her giving the written notice herein mentioned.

4 (b) The service retirement allowance of a member in  
5 Group I or I-A shall be as follows:

6 (i) For a member in the Group I 20-Year Plan, 2% of  
7 his or her average final compensation multiplied by the number  
8 of years of his or her creditable service not in excess of 20  
9 plus 1% of such compensation for each year of creditable  
10 service in excess of 20 years, subject to a maximum of 60% of  
11 average final compensation.

12 (ii) For a member in the Group I 25-Year Plan, 2% of  
13 his or her average annual final compensation multiplied by the  
14 number of years of creditable service, subject to a maximum of  
15 100% of average final compensation.

16 (iii) For a member in the Group I Cash Balance Plan,  
17 (A) the service retirement allowance that is the equivalent  
18 actuarial value of the member's cash balance account and (B)  
19 with respect to an elective cash balance plan member, an  
20 additional service retirement allowance or vesting retirement  
21 allowance, as applicable, equal to the member's pre-election  
22 frozen benefit.

23 (c) The service retirement allowance of a member in  
24 Group II shall be as follows:

25 (i) For a member in the Group II 20-Year Plan, 2  
26 1/2% of his or her average final compensation multiplied by  
27 the number of years of his or her creditable service not in

1 excess of 20 years plus 1% of such compensation for each year  
2 of creditable service in excess of 20 years, subject to a  
3 maximum of 60% of average final compensation.

4 (ii) For a member in the Group II 25-Year Plan, 2  
5 1/2% of his or her average final compensation multiplied by  
6 the number of years of creditable service, subject to a  
7 maximum of 100% of average final compensation.

8 (iii) For a member in the Group II Age 62 Plan, 2  
9 1/2% of his or her average final compensation multiplied by  
10 the number of years of creditable service, subject to a  
11 maximum of 100% of average final compensation; provided that  
12 the service retirement allowance shall be reduced by an early  
13 retirement factor of 5/9% for each full month the annuity  
14 starting date precedes the member's 62nd birthday and the  
15 annuity starting date shall in no event be earlier than a  
16 member's 55th birthday.

17 (d) For each year, a member in the Group I Cash  
18 Balance Plan shall have the member's cash balance account  
19 credited for that year with a pay credit equal to the  
20 following amounts, which are inclusive of the member's  
21 contribution:

22 (i) For a member with less than 10 years of  
23 creditable service, 11% of the member's earnable compensation.

24 (ii) For a member with 10 or more years of  
25 creditable service, but less than 15 years of creditable  
26 service, 12% of the member's earnable compensation.

1 (iii) For a member with 15 or more years of  
2 creditable service, but less than 20 years of creditable  
3 service, 13% of the member's earnable compensation.

4 (iv) For a member with 20 or more years of  
5 creditable service, but less than 25 years of creditable  
6 service, 14% of the member's earnable compensation.

7 (v) For a member with 25 or more years of creditable  
8 service, 15% of the member's earnable compensation.

9 (e) The determination of the number of years of  
10 creditable service of a member under subsection (1)(d) of this  
11 section shall be determined as of the first day of each  
12 calendar year. The pay credit shall be credited as of the last  
13 day of the calendar year; provided, however, that if a member  
14 terminates employment during the calendar year, the member  
15 shall be entitled to a pay credit on the earnable compensation  
16 actually paid to the member prior to termination of employment  
17 as soon as administratively feasible following separation from  
18 service.

19 (f) For each calendar year continuing until the last  
20 day of the calendar year before the payment of benefits  
21 commence, each person's cash balance account shall be  
22 credited, whether or not the person remains an employee or  
23 member, with an interest credit determined by multiplying the  
24 dollar amount representing the balance of the person's cash  
25 balance account as of the first day of the calendar year and  
26 all previous pay credits and interest credits, by the yield on  
27 30-year Treasury constant maturities for the November

1 immediately preceding such calendar year or such other  
2 interest crediting rate as determined by the board.

3 (g) Interest shall be credited as of the last day of  
4 the calendar year. However, a person shall receive a pro rata  
5 interest credit up to the date distributions commence and no  
6 interest shall be credited for any period after payment of  
7 benefits commence.

8 (h) Notwithstanding anything in subsection (1) of  
9 this section, the board, with the approval of the mayor, may  
10 change the amount of pay credits allocated to members' cash  
11 balance accounts under subsection (1)(d) of this section  
12 and/or change the interest credits allocated to members' cash  
13 balance accounts under subsection (1)(f) of this section;  
14 provided that any change in the interest credits will not  
15 affect previously allocated interest credits and any change in  
16 the pay credits will not affect previously allocated pay  
17 credits.

#### 18 (1.1) Spousal Benefit

19 (a) If any active member in the 20-Year Plan who has  
20 been credited with 20 or more years of creditable service  
21 should die, his or her surviving spouse, as hereinafter  
22 defined, shall be entitled to a death benefit, provided the  
23 spouse is the designated beneficiary.

24 (b) If any active member in the 25-Year Plan who has  
25 been credited with 25 or more years of creditable service  
26 should die, his or her surviving spouse, as hereinafter

1 defined, shall be entitled to a death benefit, provided the  
2 spouse is the designated beneficiary.

3 (c) If any active member in the Group II Age 62 Plan  
4 who has been credited with 25 or more years of creditable  
5 service should die, his or her surviving spouse, as  
6 hereinafter defined, shall be entitled to a death benefit  
7 payable at such time as the deceased member would have  
8 otherwise been entitled to commence payment under the Group II  
9 Age 62 Plan if he or she had terminated on the day of his or  
10 her death and survived through the annuity starting date,  
11 provided the spouse is the designated beneficiary. In  
12 accordance with the rules and procedures established by the  
13 board, the surviving spouse may elect an annuity starting date  
14 that is any date after the deceased member would have  
15 otherwise been entitled to commence payment.

16 (d) If any active member in the Group I Cash Balance  
17 Plan who has been credited with 10 or more years of creditable  
18 service should die, his or her surviving spouse, as  
19 hereinafter defined, shall be entitled to a death benefit,  
20 provided the spouse is the designated beneficiary.

21 (e) Surviving Spouse as used in this subsection  
22 shall mean the legally married spouse of the member on the  
23 date of his or her death.

24 (f) No death benefit shall be payable if the  
25 deceased member is not survived by a spouse at the annuity  
26 starting date or the surviving spouse is not the designated  
27 beneficiary.



1 (g) The death benefit shall be as follows:

2 (i) With respect to a member in the 25-Year Plan or  
3 the 20-Year Plan, the monthly income, payable for the life of  
4 the surviving spouse equal to the service retirement allowance  
5 that would have been payable to the member's surviving spouse  
6 if he or she had retired on the day immediately preceding his  
7 or her death, selected the 50% survivorship option, and  
8 designated his or her surviving spouse as beneficiary.

9 (ii) With respect to a member in the Group II Age 62  
10 Plan, the monthly income, payable for the life of the  
11 surviving spouse equal to the service retirement allowance  
12 that would have been payable to the member's surviving spouse  
13 if he or she terminated employment on the day of his or her  
14 death, survived through the annuity starting date, selected  
15 the 50% survivorship option, designated his or her surviving  
16 spouse as beneficiary, and died the day after the annuity  
17 starting date. The monthly income will be calculated using any  
18 applicable early retirement factor that would have otherwise  
19 applied to the member at the annuity starting date.

20 (iii) With respect to a member in Group I Cash  
21 Balance Plan, (A) 50% of the member's cash balance account,  
22 payable in one lump sum payment in cash and (B) with respect  
23 to an elective cash balance plan member an additional death  
24 benefit equal to the death benefit that such person would have  
25 received under the applicable previous plan, if any, based on  
26 the member's pre-election frozen benefit.

1 (h) Notwithstanding and in lieu of the death  
2 benefits set forth in subsection (1.1)(g) (i) and (ii) above,  
3 the surviving spouse may elect to receive on demand a lump sum  
4 payment equal to the member's accumulated contributions at the  
5 date of his or her death.

6 (i) Notwithstanding and in lieu of the death benefit  
7 set forth in subsection (1.1)(g)(iii)(A) above, the surviving  
8 spouse may elect to receive on demand a lump sum payment equal  
9 to the member's cash balance accumulated contributions at the  
10 date of his or her death.

11 (j) Notwithstanding and in lieu of the death benefit  
12 set forth in subsection (1.1)(g)(iii)(B) above, the surviving  
13 spouse may elect to receive on demand a lump sum payment equal  
14 to the member's pre-cash balance accumulated contributions at  
15 the date of his or her death.

16 (2) Disability Retirement Allowance

17 (a) Any member in the 20-Year Plan or 25-Year Plan  
18 in service and who has had 5 years or more of creditable  
19 service and any member in the Group II Age 62 Plan in service  
20 and who has had 10 years or more of creditable service may be  
21 retired for disability upon application of the member to the  
22 board and upon recommendation of the head of the division in  
23 which the member is employed, provided he or she meets the  
24 following requirements:

25 (i) The Medical Board after medical examination of  
26 the member shall certify that he or she is mentally or  
27 physically incapacitated for the further performance of duty;

1 that the incapacity is likely to be permanent; and that the  
2 member should be retired for physical or mental disability.

3 (ii) The disability did not result from service in  
4 the armed forces of the United States, chronic alcoholism,  
5 addiction to narcotics, intentionally self-inflicted injuries,  
6 or injuries received while committing a felony.

7 (iii) Except for temporary and/or partial disability  
8 workers' compensation benefits, medical payments and  
9 educational or training benefits, he or she is not receiving  
10 and has not received any payments for such disability from the  
11 city under workers' compensation or any other type of  
12 employer-provided payment for disability payable from the  
13 participating employer's general or self-insured funds;  
14 provided, however, that in the event the employee is entitled  
15 to any other benefits from the city or any of its boards he or  
16 she may elect by filing with the board up to the time of the  
17 commencement of the benefits, his or her choice of the two  
18 benefits. In the event he or she chooses not to accept  
19 benefits under the system he or she shall withdraw his or her  
20 accumulated contributions in a lump sum.

21 (b) The disability retirement allowance shall be  
22 computed as a service retirement allowance on the basis of his  
23 or her average final compensation and creditable service at  
24 disability retirement and shall not be reduced by any early  
25 retirement factor.

26 (c) Should a member in the 20-Year Plan or the  
27 25-Year Plan with 5 or more years of creditable service become

1 disabled under circumstances which fail to meet the  
2 requirements set forth in (i), (ii), and (iii) of subsection  
3 (2) (a) of this section, he or she may elect in lieu of a  
4 return of his or her accumulated contributions as provided  
5 under subsection (4) (a) of this section, to receive a  
6 deferred retirement allowance commencing at such age as he or  
7 she would be eligible to receive a vesting retirement  
8 allowance.

9 (d) No member shall be entitled to a disability  
10 retirement allowance unless he or she meets the requirements  
11 of (i), (ii), and (iii) of subsection (2) (a) of this section,  
12 regardless of whether the member is eligible for benefits for  
13 total (100%) disability under the federal system guidelines.

14 (e) Notwithstanding anything in subsection (2) of  
15 this section, the board, with the approval of the mayor, may  
16 increase the number of years of creditable service required to  
17 qualify for a disability retirement allowance under any or all  
18 of the retirement plans or eliminate the disability retirement  
19 allowance altogether for any or all of the retirement plans.  
20 If the disability retirement allowance is eliminated, members  
21 will be entitled to a vesting retirement allowance or service  
22 retirement allowance as applicable provided they meet the  
23 requirements for such retirement allowance.

24 (f) If a member of the Group I Cash Balance Plan  
25 terminates employment due to disability, he or she shall not  
26 be entitled to a disability retirement allowance attributable  
27 to the member's cash balance account but shall be entitled to

1 a vesting retirement allowance or service retirement allowance  
2 as applicable provided that he or she meets the requirements  
3 for such retirement allowance at the time of his or her  
4 disability; provided, however, that an elective cash balance  
5 plan member who would have qualified for a disability  
6 retirement allowance under the applicable previous plan if he  
7 or she had remained a member of the applicable previous plan  
8 shall be entitled to a disability retirement allowance  
9 computed as a service retirement allowance on the basis of his  
10 or her pre-election frozen benefit.

11 (3) Vesting Retirement Allowance

12 (a) Should any member in the 20-Year Plan or the  
13 25-Year Plan be or have been involuntarily separated from  
14 service for any cause other than fault or delinquency on his  
15 or her part after having completed ten or more years of  
16 creditable service, he or she may elect to receive a deferred  
17 retirement allowance commencing twenty years for members of  
18 the 20-Year Plan or twenty-five years for members of the  
19 25-Year Plan, as applicable pursuant to subsection (1) of this  
20 section, from the beginning of creditable service with the  
21 city or age 50, whichever occurs first. Failure of reelection  
22 of a member elected by vote of the people shall not be  
23 construed as fault or delinquency on the part of the member.

24 (b) Anything herein to the contrary notwithstanding,  
25 any member separating from service after having completed ten  
26 or more years of creditable service but prior to qualifying

1 for a service retirement allowance, may elect to receive a  
2 deferred retirement allowance commencing as follows:

3 (i) For a member in the Group I 20-Year Plan, at the  
4 age of 65.

5 (ii) For a member in the Group II 20-Year Plan, at  
6 the age of 62.

7 (iii) For a member in the Group I 25-Year Plan, at  
8 the age of 62.

9 (iv) For a member in the Group II 25-Year Plan, at  
10 the age of 55.

11 (v) For a member in the Group II Age 62 Plan, the  
12 age of 62.

13 (vi) For a member in the Group I Cash Balance Plan,  
14 (A) with respect to the vesting retirement allowance  
15 attributable to the member's cash balance account as set forth  
16 in subsection (3)(c)(iii)(A) of this section, the age of 62  
17 and (B) with respect to the vesting retirement allowance  
18 attributable to an elective cash balance plan member's  
19 pre-election frozen benefit as set forth in subsection  
20 (3)(c)(iii)(B), if any, at such time as the vesting retirement  
21 allowance would have been paid under the applicable previous  
22 plan.

23 Any member who separates from service without  
24 completing ten years of creditable service or qualifying for a  
25 disability retirement allowance shall not receive any vesting  
26 retirement allowance and shall only be entitled to receive the

1 amount of his or her accumulated contributions under the  
2 provisions of subsection (4)(a) of this section.

3 (c) The vesting retirement allowance shall be  
4 computed as follows:

5 (i) For a member in the 20-Year Plan or the 25-Year  
6 Plan, as a service retirement allowance on the basis of the  
7 member's average final compensation and creditable service at  
8 the time of separation from service.

9 (ii) For a member in the Group II Age 62 Plan, as a  
10 service retirement allowance on the basis of the member's  
11 average final compensation and creditable service at the time  
12 of separation from service.

13 (iii) For a member in the Group I Cash Balance Plan,  
14 (A) as a service retirement allowance that is the equivalent  
15 actuarial value of the member's cash balance account and (B)  
16 with respect to an elective cash balance plan member, an  
17 additional vesting retirement allowance equal to the member's  
18 pre-election frozen benefit.

19 (d) Notwithstanding the foregoing the member may at  
20 any time prior to the commencement of his or her vesting  
21 retirement allowance revoke such election and receive in lieu  
22 of such benefits the amount of his or her accumulated  
23 contributions under the provisions of subsection (4)(a) of  
24 this section. In the event of the death prior to the  
25 commencement of the vesting retirement allowance of a member  
26 who has made the election provided for herein, the amount of  
27 his or her accumulated contributions shall be paid under the

1 provisions of subsection (4)(b) of this section in lieu of any  
2 other benefit provided for in this section.

3 (4) Return of Contributions or Cash Balance Account

4 (a) Should a member cease to be an employee for any  
5 reason and not be awarded a retirement allowance, he or she  
6 shall be paid on demand his or her accumulated contributions.

7 Notwithstanding and in lieu of the vesting retirement  
8 allowance set forth in subsection (3)(c) (i) and (ii) of this  
9 section, the member may elect to receive on demand a lump sum  
10 payment equal to the member's accumulated contributions.

11 Notwithstanding and in lieu of the vesting retirement  
12 allowance set forth in subsection (3)(c)(iii)(A) of this  
13 section, the member may elect to receive on demand a lump sum  
14 payment equal to the greater of the member's cash balance  
15 account or his or her cash balance accumulated contributions.

16 Notwithstanding and in lieu of the vesting retirement  
17 allowance set forth in subsection (3)(c)(iii)(B) of this  
18 section, the member may elect to receive on demand a lump sum  
19 payment equal to the member's pre-cash balance accumulated  
20 contributions.

21 (b) Upon the receipt of proof, satisfactory to the  
22 board, of the death of a member and that the member's  
23 beneficiary is not eligible for a spousal benefit under  
24 subsection (1.1) of this section, his or her accumulated  
25 contributions shall be paid to the person, if any, as he or  
26 she shall have nominated by written designation duly



1 acknowledged and filed with the board if the person survives  
2 him or her, otherwise to the estate of the member.

3 (5) Reexamination of Beneficiaries Retired on  
4 Account of Disability

5 (a) The board may at any time and as often as it  
6 sees fit, not in excess of once in each 12 months, require any  
7 beneficiary receiving a retirement allowance due to a  
8 disability to undergo a medical examination if he or she has  
9 not yet attained his or her minimum service retirement age,  
10 the examination to be made at the place of residence of the  
11 beneficiary, the office of a physician selected by the board,  
12 or other place mutually agreed upon. Should the beneficiary  
13 refuse to submit to the medical examination his or her  
14 retirement allowance may be discontinued by the board until  
15 his or her withdrawal of the refusal, and should his or her  
16 refusal continue for over one year, all his or her rights in  
17 and to that portion of his or her retirement allowance which  
18 is provided by the contributions of the city may be revoked by  
19 the board.

20 (b) In the event a member who is receiving a  
21 retirement allowance due to a disability secures gainful  
22 employment, including employment with the city, paying more  
23 than the difference between his or her retirement allowance  
24 and his or her average final compensation, the amount of his  
25 or her retirement allowance shall be reduced to an amount  
26 which, together with the amount earnable by him or her, shall  
27 equal the amount of his or her average final compensation but,

1 in no event, to an amount less than the portion of his or her  
2 allowance provided by his or her accumulated contributions.  
3 Should his or her earning capacity be later changed, the  
4 amount of his or her retirement allowance may be further  
5 modified in like manner. Any member receiving a retirement  
6 allowance due to a disability shall advise the board of any  
7 gainful employment. The board may make an investigation at any  
8 time in reference to any gainful employment of any retired  
9 member, up to the time he or she attains his or her minimum  
10 service retirement age, and the member shall answer any  
11 question and furnish information, including copies of federal  
12 income tax returns, as the board may require. In the event  
13 that the member fails or refuses to comply with the board's  
14 request, then his or her retirement allowance may be  
15 discontinued by the board until his or her withdrawal of the  
16 refusal, and should his or her refusal continue for over one  
17 year, all his or her rights in and to that portion of his or  
18 her retirement allowance which is provided by the  
19 contributions of the city may be revoked by the board.

20 (6) Restoration of Beneficiaries to Membership

21 Should a member receiving a retirement allowance due  
22 to a disability be restored to or be in service at a  
23 compensation equal to or greater than his or her average final  
24 compensation at retirement, or should any other beneficiary be  
25 restored to service, his or her retirement allowance shall  
26 cease, any election of an optional benefit shall become void,  
27 he or she shall again become a member of the system as a

1 member of the retirement plan from which he or she was  
2 receiving the disability allowance and shall contribute  
3 thereafter at the then prevailing rate. An amount equal to the  
4 actuarial reserve held for the part of his or her retirement  
5 allowance provided by his or her contributions shall be  
6 credited to him or her as accumulated contributions. Any  
7 creditable service to which he or she was entitled when he or  
8 she retired shall be restored to him or her, and upon  
9 subsequent retirement his or her retirement allowance shall be  
10 based on his or her compensation and creditable service before  
11 and after the period of prior retirement; provided that if he  
12 or she does not complete three years of creditable service  
13 after his or her restoration to service, the part of his or  
14 her retirement allowance upon subsequent retirement payable  
15 with respect to creditable service rendered before the period  
16 of his or her previous retirement shall be equal to his or her  
17 previous retirement allowance with all of the provisions of  
18 any option restored, if one was elected, with respect to such  
19 part of his or her retirement allowance.

20 (7) Optional Allowances

21 Until the date of his or her retirement and, in the  
22 case of a member eligible for a vesting retirement allowance,  
23 the date as of which the allowance is to commence, any member  
24 may elect to convert the retirement allowance otherwise  
25 payable to him or her into a modified retirement allowance of  
26 equivalent actuarial value in accordance with one of the  
27 optional forms named below. The election shall become

1 effective on the member's retirement date or the date as of  
2 which his or her vesting retirement allowance is to commence,  
3 as the case may be.

4 Option 1. A reduced retirement allowance payable  
5 during the life of the retired member, with the provision that  
6 if he or she dies before he or she has received in payments of  
7 his or her allowance the amount of his or her accumulated  
8 contributions at the time of his or her retirement, the  
9 balance of such amount shall be paid to the person, if any, as  
10 he or she shall have nominated by written designation duly  
11 acknowledged and filed with the board if the person survives  
12 him or her, otherwise to the retired member's estate; or

13 Option 2. A reduced retirement allowance payable  
14 during the life of the retired member, with the provision that  
15 upon his or her death his or her reduced retirement allowance  
16 shall be continued throughout the life of and paid to such  
17 person as he or she shall have nominated by written  
18 designation duly acknowledged and filed with the board at the  
19 time of retirement; or

20 Option 3. A reduced retirement allowance payable  
21 during the life of the retired member, with the provision that  
22 upon his or her death one-half of his or her reduced  
23 retirement allowance shall be continued throughout the life of  
24 and paid to such person as he or she shall have nominated by  
25 written designation duly acknowledged and filed with the board  
26 at the time of retirement; or

1           Option 4. A reduced retirement allowance payable  
2 during the life of the retired member, with the provision that  
3 upon his or her death some other benefit shall be payable,  
4 provided that the total value of the allowance during his or  
5 her life and the succeeding benefit shall be computed to be of  
6 equivalent actuarial value to the retirement allowance which  
7 he or she would receive without optional modification and  
8 provided that the benefit shall be approved by the board.

9           Option 5. With respect to members of the Group I  
10 Cash Balance Plan only and only with respect to the retirement  
11 allowance attributable to the cash balance account, one  
12 lump-sum payment in cash equal to his or her cash balance  
13 account. An elective cash balance plan member may receive his  
14 or her retirement allowance attributable to the cash balance  
15 account in one lump-sum payment in cash and also receive his  
16 or her retirement allowance attributable to the pre-election  
17 frozen benefit in accordance with one of the other forms of  
18 payment permitted under this act.

19           (7.1) Anything herein to the contrary  
20 notwithstanding, a member may elect to convert the retirement  
21 allowance otherwise payable to him or her into a modified  
22 retirement allowance of equivalent actuarial value in  
23 accordance with one of the optional forms named in subsection  
24 (7) of this section.

25           Whenever any member has elected an optional  
26 allowance and has nominated his or her spouse to receive all  
27 amounts and benefits payable on or after the member's death as

1 a result of the election, the member may revoke the election  
2 any time after the death of the spouse or the entry of a final  
3 judgment and complete divorce from the spouse so nominated.  
4 Upon revocation, the member shall return to the single  
5 lifetime only retirement allowance otherwise payable to him or  
6 her. The revocation shall be effective on the first day of the  
7 month following the month in which the revocation is filed  
8 with the board and once filed shall be final and irrevocable.  
9 Beneficiary elections and changes to the election, if allowed  
10 by the board, shall be made in accordance with the policies  
11 and procedures established by the board.

12 (8) Preservation of Benefits Accrued Under the  
13 System Prior Hereto

14 Anything herein contained to the contrary  
15 notwithstanding, the retirement allowance payable under the  
16 system to a member immediately prior to the effective date of  
17 this act, who continued without a break in membership to his  
18 or her retirement date or termination of employment entitling  
19 him or her to a benefit hereunder, shall not be less than the  
20 benefit which would otherwise be payable to him or her under  
21 the system as in effect prior to the effective date of this  
22 act, based on his or her creditable service to and his or her  
23 compensation earned prior to the effective date of this act.

24 (9) The payment of benefits shall begin no later  
25 than the 60th day after the close of the calendar year in  
26 which the latest of the following events occur: (a) the date  
27 on which the former employee attains the earlier age of 65 or

1 his or her minimum service retirement age specified in the  
2 act; (b) the 10th anniversary of the year in which the  
3 employee or former employee became a member of the system; or  
4 (c) the date the member employee's employment with the city is  
5 terminated. All distributions will be determined and made in  
6 accordance with Section 401(a) (9) of the Internal Revenue Code

7 (10) The maximum amount payable to a member under  
8 the system in any calendar year when expressed as a straight  
9 life annuity commencing at normal retirement age shall be  
10 \$160,000.00. The dollar limitations shall be adjusted annually  
11 as provided in Section 415(d) of the Internal Revenue Code  
12 pursuant to the regulations, effective as of January 1 of each  
13 calendar year. The limitations, adjustments, definitions,  
14 special rules, and other requirements prescribed by this act  
15 shall at all times comply with the provisions of Section 415  
16 of the Internal Revenue Code and the regulations thereunder as  
17 applicable to government plans, the terms of which are  
18 specifically incorporated herein by reference.

19 (11) Notwithstanding any provision of this act to  
20 the contrary, a distributee may elect, at the time and in the  
21 manner prescribed by the board, to have any eligible rollover  
22 distribution, or any portion of an eligible rollover  
23 distribution, paid directly to an eligible retirement plan  
24 specified by the distributee in a direct rollover in  
25 accordance with Section 402(c) of the Internal Revenue Code.

26 Section 7. All of the assets of the system shall be  
27 credited, according to the purpose for which they are held,

1 among three accounts, namely, the Members' Account, the  
2 Accumulation Account and the Expenses Account.

3 (1) Members' Account.

4 (a) The Members' Account shall be the account in  
5 which shall be held the accumulated contributions of members.  
6 The Member's Account shall include accumulated contributions  
7 under the applicable previous plan.

8 (b) The city shall cause to be deducted from the  
9 compensation of each member on each and every payroll for each  
10 and every payroll period the following:

11 (i) For each member in the Group I 20-Year Plan, 6%  
12 of his or her earnable compensation.

13 (ii) For each member in the Group I 25-Year Plan, 6%  
14 of his or her earnable compensation.

15 (iii) For each member in the Group II 20-Year Plan,  
16 6% of his or her earnable compensation.

17 (iv) For each member in the Group II 25-Year Plan,  
18 6% of his or her earnable compensation.

19 (v) For each member in the Group I Cash Balance  
20 Plan, 6% of his or her earnable compensation.

21 (vi) For each member in the Group II Age 62 Plan, 7%  
22 of his or her earnable compensation.

23 Notwithstanding the foregoing, the mayor, with the  
24 approval of the board, may increase the member contribution  
25 amount for any or all of the plans by up to one percent  
26 annually not to exceed eight percent of the member's earnable  
27 compensation. In determining the amount earnable by a member



1 in a payroll period, the board may consider the rate of  
2 compensation payable to the member on the first day of a  
3 payroll period as continuing throughout the payroll period,  
4 and it may omit deduction from compensation of any period less  
5 than a full payroll period.

6 (c) The deductions provided for herein shall be made  
7 notwithstanding that the minimum compensation provided by law  
8 for any member shall be reduced thereby. Every member shall be  
9 deemed to consent and agree to the deductions made and  
10 provided for herein and shall receipt for his or her full  
11 salary or compensation, and payment of salary or compensation  
12 less the deduction shall be a full and complete discharge and  
13 acquittance of all claims and demands whatsoever for the  
14 services rendered by the person during the period covered by  
15 the payment, except as to the benefits provided under this  
16 act.

17 (d) The proper authority or officer responsible for  
18 making up the payroll shall certify to the board the amounts  
19 deducted on each and every payroll, and each of the amounts  
20 shall be paid into the Members' Account and credited to the  
21 individual account of the member from whose compensation the  
22 deduction was made.

23 (e) The accumulated contributions of a member paid  
24 upon his or her death or withdrawn by him or her, as provided  
25 in this act, shall be paid from the Members' Account. Upon the  
26 retirement of a member or other commencement of benefits  
27 hereunder, his or her accumulated contributions shall be

1 transferred from the Members' Account to the Accumulation  
2 Account.

3 (2) Accumulation Account.

4 (a) The Accumulation Account shall be the account in  
5 which shall be accumulated all contributions made by the city  
6 to provide benefits under the system and from which shall be  
7 paid all retirement allowances and other benefits under the  
8 system, other than those payable from the Members' Account.

9 Regular Contributions by the City

10 (b) On account of each member there shall be paid  
11 annually into the Accumulation Account a certain percentage of  
12 the compensation of each member to be known as the normal  
13 contribution, and an additional percentage of his or her  
14 compensation to be known as the accrued liability  
15 contribution. The rates per centum of the contribution shall  
16 be fixed on the basis of the liabilities of the system as  
17 shown by actuarial valuation.

18 (c) The normal contribution rate shall be determined  
19 after each actuarial valuation. The normal contribution rates  
20 shall be determined, on the basis of regular interest and the  
21 tables last adopted by the board, as the uniform and constant  
22 percentages of the compensation of Group I and Group I-A, or  
23 Group II members, as the case may be, which, if contributed on  
24 the basis of the prospective compensation of such members  
25 throughout their entire period of active service, would be  
26 sufficient to provide for the payment of the portion of any  
27 retirement allowance or other benefit payable on their account

1 not provided by his or her own contributions and accumulated  
2 in total past service liabilities.

3 (d) The accrued liability contribution rates shall  
4 be computed as the rate per centum of the total annual  
5 compensation of all Group I and Group I-A, or Group II  
6 members, as the case may be, which is an amortization, for a  
7 period to be established by the board and not to exceed thirty  
8 years, that is level percentage of the projected payroll (or a  
9 level dollar amount at the discretion of the board) of the  
10 total past service liabilities related to the payment of any  
11 retirement allowance or other benefit to be payable on their  
12 account in excess of the Accumulation Account, which is not  
13 dischargeable by the aforesaid normal contributions made on  
14 account of such members during the remainder of their active  
15 service.

16 (e) The total amount payable by the city in each  
17 year to the Accumulation Account shall be not less than the  
18 sum of the rates per centum known as the normal contribution  
19 rate and the accrued liability contribution rate, of the total  
20 compensation of all members in Group I, I-A, and in Group II,  
21 respectively, during the preceding year; provided, however,  
22 that the total amount payable by the city shall be at least  
23 the amount provided for in Statement No. 27 of Governmental  
24 Accounting Standards Board (or successor thereof), and that  
25 the aggregate payment shall be sufficient, when combined with  
26 the amount in the account, to provide the retirement

1 allowances and other benefits payable to members and  
2 beneficiaries during the year then current.

3 (f) All interest and dividends earned on the funds  
4 of the system shall be credited to the Accumulation Account.

5 (g) All retirement allowances to beneficiaries, and  
6 benefits in lieu thereof, shall be paid from the Accumulation  
7 Account.

### 8 (3) Expense Account

9 The Expense Account shall be the account from which  
10 shall be paid all the expenses necessary in connection with  
11 the administration and operation of the system. Persons  
12 assigned to and working for the system shall be employees of  
13 the city, and their salaries and other accrued benefits for  
14 such employees shall be paid proportionately by the city and  
15 the City of Montgomery Airport Authority, based upon each  
16 organization's relative percentage of covered member payroll.  
17 All other expenses and costs incurred in connection with the  
18 administration and operation of the retirement system,  
19 including, but not limited to, the fees and costs paid to the  
20 system's investment trustees and advisors, shall be the sole  
21 responsibility of, and shall be paid by, the retirement system  
22 itself from its investment income.

### 23 (4) Appropriations

24 On or before the first day of June of each year the  
25 board shall file with the council its certification of the  
26 amount of the appropriation necessary to pay the normal and  
27 accrued liability contributions to the retirement fund for the

1       ensuing year, and the amount of appropriation required to  
2       cover the expenses necessary in connection with the  
3       administration and operation of the system, and the amounts  
4       shall be included in the budget, in accordance with legal  
5       budget procedure.

6                   (5) Member Contributions

7                   (a) Contributions which the city causes pursuant to  
8       subsection (1) of this section to be deducted from the  
9       compensation of each member employee and contributed to the  
10      member's account under the act shall be treated for purposes  
11      of Section 414(h) (2) of the Internal Revenue Code as being  
12      paid by the city in lieu of contributions by any member  
13      employee.

14                  (b) The member employee contributions which are  
15      picked up will continue to be designated employee compensation  
16      for determining the amount of the contribution to be so picked  
17      up; the total amount of the contribution of each member  
18      employee to the system shall not be reduced by this section;  
19      the amount of the retirement allowance of each member shall  
20      not be affected by this section, no other changes in the  
21      method of computation and transmittal of these picked up  
22      employee contributions shall be affected by this section; and  
23      the total amount paid to and on behalf of each member employee  
24      will not be increased or decreased by this section.

25                  (c) The procedure whereby the member employees'  
26      contribution to the system is picked up shall apply equally to  
27      each and every employee who participates in the system; no

1 employee shall be given any option concerning this pick up;  
2 and this procedure of pick up shall be mandatory on all member  
3 employees.

4 (d) Forfeitures, if any, arising from severance of  
5 employment, death, or for any other reason, may not be used to  
6 increase benefits for employee members or their beneficiaries  
7 who would otherwise receive under the system at any time prior  
8 to termination of the system or the complete discontinuance of  
9 city contributions. Forfeitures, if any, are to be used as  
10 soon as possible to reduce subsequent city contributions.

11 Section 8. Management of Funds.

12 (1) Investments shall be managed by the investment  
13 trustee. The board shall otherwise manage the system.

14 (2) The board shall designate one of its members,  
15 with an appropriate bond, or a bank or trust company, to be  
16 the custodian of the funds of the system other than those in  
17 the possession of the investment trustee. All payments from  
18 the funds of the system shall be made only upon regular  
19 vouchers signed by two persons designated by the board, each  
20 of whom shall be bonded. A duly attested copy of a resolution  
21 of the board designating the persons and bearing upon its face  
22 specimen signatures of the persons shall be filed with the  
23 custodian as his or her authority for making payments upon the  
24 vouchers. No voucher shall be drawn unless it shall have been  
25 previously authorized by resolution of the board. All persons  
26 authorized to sign the vouchers shall be bonded in an amount  
27 or amounts established by the board from time to time and

1 commensurate with the applicable fiscal responsibilities and  
2 risks.

3 (3) For the purpose of meeting disbursements for  
4 retirement allowances and other payments there shall be kept  
5 on deposit available cash in an amount to be determined from  
6 time to time by the board. The board shall notify the  
7 investment trustee in writing of the amount determined by the  
8 board to be desirable. No voucher shall be drawn unless it  
9 shall have been previously authorized by resolution of the  
10 board.

11 (4) Except as otherwise herein provided, no member  
12 nor employee of the board, the City of Montgomery Airport  
13 Authority, or of the city, shall have any direct or indirect  
14 interest in the gains or profits of any investment made by the  
15 board or the investment trustee, nor as a member of the board  
16 receive any pay or emolument for his or her services. No  
17 member nor employee of the board shall, directly or  
18 indirectly, for himself or herself or as an agent in any  
19 manner use the same, except to make the current and necessary  
20 payments as are authorized by the board.

21 (5) The board shall cause the accounts and  
22 operations of the retirement system to be audited by an  
23 independent outside auditor annually, and, an audit of its  
24 management practices and procedures every three years, or more  
25 often if necessary to maintain security and efficiency.

26 Section 9. Member To Elect Between Service  
27 Retirement and Other City Payments.

1                   Anything in this act to the contrary  
2 notwithstanding, any person who is entitled to receive  
3 benefits directly from the city or from the funds of the city  
4 or from any board or commission connected with the city, for  
5 any disability, shall elect on forms, and in accordance with  
6 rules and regulations adopted by the board, between those  
7 benefits and the service retirement benefits under this  
8 system. In the event the person does not elect to receive a  
9 service retirement benefit, then he or she shall receive no  
10 service retirement benefits but shall be entitled to a return  
11 of his or her accumulated contributions.

12                   Section 10. Return of Contributions.

13                   Wherever in this act provision is made for return of  
14 contributions of a member, the return shall be made without  
15 payment of interest for the period subsequent to December 31,  
16 1968, or the return of interest paid by the member when  
17 purchasing past service.

18                   Section 11. Assignments Prohibited.

19                   The property and funds of the system, the  
20 contributions of members deducted from their compensation, the  
21 right of a person to a retirement allowance or other benefit,  
22 and any other right accrued or accruing to any person under  
23 the provisions of this act and the moneys in the accounts  
24 created by this act shall not be subject to taxation by the  
25 city nor by the State of Alabama, nor be subject to execution,  
26 garnishment, attachment, the operation of bankruptcy or  
27 insolvency law or any other process of law whatsoever to



1 satisfy any debt or liability of any member, and shall be  
2 unassignable except as in this act specifically provided.

3 Section 12. Protection Against Fraud

4 Whoever with intent to deceive shall make any  
5 statements or reports required under this act which are  
6 untrue, or shall falsify or permit to be falsified any record  
7 or records of this system shall be fined not to exceed one  
8 thousand dollars (\$1,000), or imprisoned not to exceed six  
9 months, or both.

10 Section 13. Errors.

11 Should any change or error in the records result in  
12 any member or beneficiary receiving from the system more or  
13 less than he or she would have been entitled to receive had  
14 the records been correct, the board shall have the power to  
15 correct the error, and as far as practicable, to adjust the  
16 payments in the manner that benefits of equivalent actuarial  
17 value to the benefit to which the member or beneficiary was  
18 correctly entitled shall be paid.

19 Section 14. General Conditions.

20 (1) The board shall have the continuing right and  
21 power to amend or supplement the retirement plans created by  
22 this act and the terms and conditions thereof at any time,  
23 which right and power is hereby expressly reserved, but no  
24 amendment shall be adopted which will reduce the then accrued  
25 benefits of employees or beneficiaries below the extent they  
26 are then covered by accumulated reserves, which reserves shall  
27 constitute a trust fund for the payment of the benefits,

1       except that any amendment or supplement which would result in  
2       additional contributions by the city shall be approved by the  
3       board, the council, and the governing body of the  
4       participating employer. At least every two years, the board  
5       will review the retirement allowances being paid to  
6       beneficiaries and make a determination as to whether or not to  
7       recommend a cost-of-living adjustment to the mayor and the  
8       council.

9               (2) All provisions of any act inconsistent with the  
10       provisions of this act are hereby repealed to the extent of  
11       the inconsistency.

12              (3) If any section or part of any section of this  
13       act is declared to be unconstitutional, the remainder of the  
14       act shall not thereby be invalidated.

15              (4) No amendment or supplement to the plan shall be  
16       effective if it authorizes or permits any part of the trust  
17       fund, other than such part as is required to pay  
18       administrative expenses and taxes if any, to be used for or  
19       diverted to any purpose other than for the exclusive benefit  
20       of member employees or their beneficiaries or estates, or  
21       causes any reduction in the then accrued benefits of member  
22       employees or their beneficiaries below the extent they are  
23       then covered by accumulated reserves.

24              Section 15. Employee Retention Incentive Program  
25       ("ERIP").

26              (1) Effective January 1, 2005, a member in the  
27       20-Year Plan or the 25-Year Plan who is actively employed may

1 make an election to participate in the ERIP option. The  
2 election shall be made during the period of 30 to 60 days  
3 prior to the member's actual retirement date. A member  
4 electing the ERIP option shall specify the ERIP election  
5 period.

6 (2) A member who has elected the ERIP option shall  
7 receive the following benefits:

8 (a) A retirement allowance as if the member had  
9 actually retired on the ERIP calculation date, based on  
10 creditable service and average final compensation on such  
11 date; and

12 (b) A lump sum payment calculated based upon the  
13 retirement allowance calculated in (a) above multiplied by the  
14 number of months in the ERIP election period plus annual com-  
15 pound interest at the rate of 5%. The following factors shall  
16 be multiplied by the retirement allowance to determine the  
17 lump sum payment:

ERIP Election Period	Factor
12 months	12.3226
24 months	25.2613
36 months	38.8469

22 (3) The lump sum benefit calculated pursuant to (2)  
23 above shall be paid to the member as promptly as

1 administratively practicable following the member's actual  
2 retirement date.

3 (4) A member who has previously elected the ERIP  
4 option and received a lump sum payment hereunder and who is  
5 rehired as an employee on or after January 1, 2008, shall be  
6 subject to the following rules:

7 (a) In the event the member repays the lump sum plus  
8 annual compound interest at the rate of seven percent (7%)  
9 within 30 days of his or her rehire date, the prior election  
10 of the ERIP option shall be disregarded for all purposes. As  
11 of the member's subsequent retirement date, the member, if he  
12 or she is a member in the 20-Year Plan or the 25-Year Plan,  
13 may again elect the ERIP option, subject to the rules set  
14 forth above. In determining the member's retirement allowance  
15 at the subsequent retirement, all creditable service,  
16 including the prior ERIP election period shall be taken into  
17 account, but excluding service in any subsequent ERIP election  
18 period.

19 (b) In the event the member does not repay the lump  
20 sum plus annual compound interest at the rate of seven percent  
21 (7%) within 30 days of his or her rehire date and the period  
22 of creditable service following the member's rehire date is  
23 longer than the initial ERIP election period, the member's  
24 retirement allowance as of his or her subsequent retirement  
25 date shall be based upon all creditable service excluding the  
26 original ERIP election period.

1           (c) In the event the member does not repay the lump  
2 sum plus annual compound interest at the rate of seven percent  
3 (7%) within 30 days of his or her rehire date and the period  
4 of creditable service following the member's rehire date is  
5 less than the initial ERIP election period, the member's  
6 retirement allowance as of his or her subsequent retirement  
7 date shall be based upon all creditable service including the  
8 original ERIP election period and reduced by the actuarial  
9 equivalent of the lump sum payment received as a result of  
10 electing the original ERIP option. For purposes of determining  
11 actuarial equivalence, the interest rate shall be seven  
12 percent (7%) and the member's life expectancy shall be based  
13 upon the Static 1994 Group Annuity Mortality Table.

14           (5) The board may suspend or eliminate the ERIP  
15 program at any time, other than with respect to a member who  
16 has made an ERIP election prior to the date of the suspension  
17 or elimination of the ERIP program. Notwithstanding the  
18 foregoing, the provisions of subsection (4) of this section  
19 shall continue in effect following the suspension or  
20 elimination.

21           (6) Members of the Group II Age 62 Plan and the  
22 Group I Cash Balance Plan are not eligible to elect to  
23 participate in the ERIP option.

24           Section 16. This act shall become effective on the  
25 first day of the third month following its passage and  
26 approval by the Governor, or its otherwise becoming law.