

1 HB155
2 216493-1
3 By Representative Ellis
4 RFD: Ways and Means General Fund
5 First Read: 18-JAN-22

SYNOPSIS: This bill would change the option available to a surviving spouse of a retirement eligible member of the District Attorneys' Plan, the Judges' and Clerks' Plan, the Teachers' Retirement System of Alabama, and the Employees' Retirement System of Alabama that has died in active service.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Retirement Systems of Alabama; to amend Sections 12-17-277.6, 12-18-156, 16-25-14, and 36-27-16 of the Code of Alabama 1975, as amended by Act 2021-270, 2021 Regular Session; to change the option available to a surviving spouse of a retirement eligible member of the District Attorneys' Plan, the Judges' and Clerks' Plan, the Teachers' Retirement System of Alabama, and the Employees' Retirement System of Alabama that has died in active service; and to provide for a retroactive effective date.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 12-17-277.6, 12-18-156,
3 16-25-14, and 36-27-16 of the Code of Alabama 1975, as amended
4 by Act 2021-270, 2021 Regular Session, are amended to read as
5 follows:

6 "§12-17-227.6.

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

22 "(b) In case of the death of a member eligible for
23 service retirement pursuant to Section 12-17-227.4, an
24 allowance shall be paid to the surviving spouse, if designated
25 as the sole beneficiary, in an amount that would have been
26 payable if the member had retired immediately prior to his or
27 her death and had elected Option 2, as set forth in subsection

1 (d), or to such other person who the member shall have
2 designated, in an amount that would have been payable if the
3 member had retired immediately prior to his or her death and
4 had elected Option 3, as set forth in subsection (d) ~~or,~~
5 ~~alternatively,~~ Alternatively, if the surviving spouse or
6 other designee desires, he or she may choose to receive, in
7 lieu of the allowance provided under Option 2 or Option 3, the
8 accumulated contributions of the member plus an amount equal
9 to the accumulated contributions of the member not to exceed
10 ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated
11 contributions of the member plus the benefit provided by
12 Section 36-27B-3 if a benefit is payable under ~~such that~~
13 section.

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

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

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

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

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

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

21 "(4) OPTION 4. Some other benefit or benefits shall
22 be paid either to the member or to such person or persons as
23 he or she shall nominate; provided, that ~~such~~ those other
24 benefits, together with the reduced retirement allowance,
25 shall be certified by the actuary to be of equivalent
26 actuarial value to his or her retirement allowance and shall
27 be approved by the Board of Control.

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

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

27 "§12-18-156.

1 "(a) Should a member cease to be a judge or clerk
2 except by death or by retirement under the provisions of this
3 article, the contributions standing to the credit of his or
4 her individual account in the fund shall be paid to him or her
5 upon demand and, in addition to ~~such~~ that payment, there shall
6 be paid five-tenths of the interest accumulations standing to
7 the credit of his or her individual account if he or she shall
8 have not less than three but less than 16 years of membership
9 service, six-tenths of ~~such~~ the interest accumulations if he
10 or she shall have not less than 16 but less than 21 years of
11 membership service, seven-tenths of ~~such~~ the interest
12 accumulations if he or she shall have not less than 21 but
13 less than 26 years of membership service and eight-tenths of
14 ~~such~~ the interest accumulations if he or she shall have not
15 less than 26 years of membership service.

16 "(b) In case of the death of a member eligible for
17 service retirement pursuant to Section 12-18-154, an allowance
18 shall be paid to the surviving spouse, if designated as the
19 sole beneficiary, in an amount that would have been payable if
20 the member had retired immediately prior to his or her death
21 and had elected Option 2, as set forth in subsection (d), or
22 to such other person who the member shall have designated, in
23 an amount that would have been payable if the member had
24 retired immediately prior to his or her death and had elected
25 Option 3, as set forth in subsection (d) ~~or, alternatively.~~
26 Alternatively, if the surviving spouse or other designee
27 desires, he or she may choose to receive, in lieu of the

1 allowance provided under Option 2 or Option 3, the accumulated
2 contributions of the member plus an amount equal to the
3 accumulated contributions of the member not to exceed
4 ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated
5 contributions of the member plus the benefit provided by
6 Section 36-27B-3 if a benefit is payable under ~~such~~ that
7 section.

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

18 "(d) Optional allowances. With the provision that
19 the election of an option shall be effective on the effective
20 date of retirement, any member may elect prior to retirement
21 to receive, in lieu of his or her retirement allowance payable
22 throughout life, the actuarial equivalent, at that time, of
23 his or her retirement allowance in a reduced retirement
24 allowance payable throughout life with the provisions that:

25 "(1) OPTION 1. If he or she dies before he or she
26 has received in annuity payments the present value of his or
27 her annuity as it was at the time of his or her retirement,

1 the balance shall be paid to his or her legal representatives
2 or to the person as he or she shall nominate by written
3 designation duly acknowledged and filed with the Board of
4 Control;

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

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

15 "(4) OPTION 4. Some other benefit or benefits shall
16 be paid either to the member or to the person or persons as he
17 or she shall nominate; provided, that ~~such~~ those other
18 benefits, together with the reduced retirement allowance,
19 shall be certified by the actuary to be of equivalent
20 actuarial value to his or her retirement allowance and shall
21 be approved by the Board of Control.

22 "(5) Where the person designated by the member under
23 this subsection to receive a continued retirement allowance is
24 a beneficiary of a special needs trust established under Title
25 42, United States Code, Section 1396p(d)(4)(A) or (C), as
26 amended, the retirement allowance payable to the person may be
27 paid by the retirement system to the special needs trust upon

1 written direction to the retirement system by the member or,
2 after the member is deceased, by the designated person or by
3 his or her legal representative if the designated person is a
4 minor or is incapacitated.

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

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

1 by the member, commencing with the first benefit allowance
2 check received by the member following the date of designation
3 of the replacement beneficiary.

4 "§16-25-14.

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

20 "(2) Any Tier I plan member who has attained age 60
21 and any Tier II plan member who has attained age 62, or in the
22 case of a Tier II plan member who is a correctional officer,
23 firefighter, or law enforcement officer as defined in Section
24 36-27-59, who has attained age 56 with at least ~~ten~~ 10 years
25 of creditable service as a correctional officer, firefighter,
26 or law enforcement officer and has previously withdrawn from
27 service may retire upon written application to the Board of

1 Control setting forth at what time, not less than 30 days nor
2 more than 90 days subsequent to the execution and filing
3 thereof, he or she desires to be retired; provided, that the
4 member shall have completed at the time for his or her
5 withdrawal from service the requirements established by the
6 Board of Control for eligibility for deferred benefits
7 pursuant to Section 16-25-3.

8 "(3) Any person who is presently covered or is
9 eligible to be covered under the Employees' Retirement System
10 of Alabama or the Teachers' Retirement System of Alabama and
11 who, prior to ~~such~~ coverage or eligibility for coverage,
12 served as head of any Alabama county's public library service
13 department shall have credited to him or her one year of
14 creditable service for each year served as such head, not to
15 exceed 12 years; provided, that ~~such~~ the person shall pay into
16 the retirement system the employee's part of the cost or
17 contribution based on the salary paid to ~~such~~ the person
18 during the time of his or her service in the above capacity,
19 with ~~such~~ the cost or contribution to be calculated at the
20 percent or rate in effect on October 1, 1973.

21 "(4) Any Tier I plan member of the Teachers'
22 Retirement System of Alabama, who withdraws from service after
23 the completion of at least 25 years of creditable service, may
24 retire upon written application to the Board of Control of the
25 Teachers' Retirement System setting forth at what time, not
26 less than 30 days nor more than 90 days subsequent to the
27 execution and filing thereof, he or she desires to be retired;

1 provided, that any such member who became a Tier I plan member
2 on or after October 1, 1963, shall have completed 10 or more
3 years of creditable service.

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

7 "(1) An annuity which shall be the actuarial
8 equivalent of his or her accumulated contributions at the time
9 of his or her retirement;

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

14 "(3) If he or she has a prior service certificate in
15 full force and effect, an additional pension which shall be
16 equal to the annuity which would have been provided at age of
17 retirement, but not to exceed an annuity allowable at age 65
18 by twice the contributions which he or she would have made
19 during the period of prior service with which he or she is
20 credited had the system been in operation and had he or she
21 contributed thereunder. In lieu of a determination of the
22 actual compensation of the members that was received during
23 ~~such~~ that prior service, the Board of Control may use for the
24 purposes of this chapter the compensation rates which, if they
25 had progressed with the rates of salary increase shown in the
26 tables as prescribed in subsection (o) of Section 16-25-19,
27 would have resulted in the same average salary of the member

1 for the five years immediately preceding the date of
2 establishment as the records show the member actually
3 received.

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

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

12 "(2) If he or she became a member before October 1,
13 1971, ~~\$72~~ seventy-two dollars (\$72) multiplied by the number
14 of years of his or her creditable service not in excess of 25
15 years.

16 "Notwithstanding, a member who retired prior to
17 October 1, 1971, under service retirement shall receive ~~\$120~~
18 one hundred twenty dollars (\$120) multiplied by the number of
19 years of his or her creditable service not in excess of 25
20 years.

21 "(d) Upon retirement from service, a Tier II plan
22 member shall receive a service retirement allowance which
23 shall consist of an annuity which shall be the actuarial
24 equivalent of the member's accumulated contributions at the
25 time of retirement and a pension which, when added to the
26 member's annuity, shall be equal to one and sixty-five
27 hundredths percent (1.65%) of the member's average final

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

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

25 "(f) Upon retirement for disability, a Tier I plan
26 member shall receive a service retirement allowance if he or
27 she has attained age 60 or if any law or part of any law

1 pertaining to retirement under the Teachers' Retirement System
2 of Alabama provides for service retirement after the
3 completion of 25 years of creditable service and the member
4 has completed 25 years of creditable service; otherwise, he or
5 she shall receive a disability retirement allowance which
6 shall consist of:

7 "(1) An annuity which shall be the actuarial
8 equivalent of his or her accumulated contributions at the time
9 of retirement; and

10 "(2) A pension which shall be equal to the pension
11 that would have been payable under subdivisions (2) and (3) of
12 subsection (b) of this section upon service retirement at age
13 60 had the member continued in service to that age without
14 change in compensation.

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

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

21 "b. If he or she became a member before October 1,
22 1971, ~~\$54~~ fifty-four dollars (\$54) multiplied by the number of
23 years of his or her creditable service not in excess of 25
24 years.

25 "Notwithstanding, a member who retired prior to
26 October 1, 1971, for disability shall receive ~~\$90~~ ninety

1 dollars (\$90) multiplied by the number of years of his or her
2 creditable service not in excess of 25 years.

3 "(g) Upon retirement for disability, a Tier II plan
4 member shall receive a service retirement allowance if the
5 member has attained age 62, or in the case of a Tier II plan
6 member who is a correctional officer, firefighter, or law
7 enforcement officer as defined in Section 36-27-59, if the
8 member has attained age 56 with at least ~~ten~~ 10 years of
9 creditable service as a correctional officer, firefighter, or
10 law enforcement officer, otherwise, the member shall receive a
11 disability retirement allowance which shall be equal to one
12 and sixty-five hundredths percent (1.65%) of the member's
13 average final compensation multiplied by the number of years
14 of creditable service.

15 "(h) (1) Once each year during the first five years
16 following the retirement of a member on a disability
17 retirement allowance and once in every three-year period
18 thereafter, the Board of Control may and upon his or her
19 application shall require any disability beneficiary who has
20 not yet attained age 60 for a Tier I plan member or age 62 for
21 a Tier II plan member to undergo a medical examination, ~~such~~
22 the examination to be made at the place of residence of ~~such~~
23 the beneficiary or other place mutually agreed upon by a
24 physician of or designated by the medical board. Should any
25 disability beneficiary who has not yet attained age 60 for a
26 Tier I plan member or age 62 for a Tier II plan member refuse
27 to submit to ~~such~~ the medical examination, his or her pension

1 may be discontinued until his or her withdrawal of ~~such~~ the
2 refusal, and should his or her refusal continue for one year,
3 all his or her rights in and to his or her pension may be
4 revoked by the Board of Control; provided, that these
5 requirements relative to the medical examination shall not
6 apply in the case of a Tier II plan member who is a
7 correctional officer, firefighter, or law enforcement officer
8 as defined in Section 36-27-59 retired for disability and who
9 has attained age 56 with at least ~~ten~~ 10 years of creditable
10 service as a correctional officer, firefighter, or law
11 enforcement officer.

12 "(2) Should the medical board report and certify to
13 the Board of Control that a disability beneficiary who is a
14 Tier I plan member is engaged in or is able to engage in a
15 gainful occupation paying more than the difference between his
16 or her retirement allowance and his average final compensation
17 and should the Board of Control concur in ~~such~~ the report,
18 then the amount of his or her pension shall be reduced to an
19 amount which, together with his or her annuity and the amount
20 earnable by him or her, shall equal the amount of his or her
21 average final compensation. Should his or her earning capacity
22 be later changed, the amount of his or her pension may be
23 further modified; provided, that the new pension shall not
24 exceed the amount of the pension originally granted nor an
25 amount which, when added to the amount earnable by the
26 beneficiary together with his or her annuity, equals the
27 amount of his or her average final compensation.

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

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

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

1 subsection (j), or to such other person who the member shall
2 have designated, in an amount that would have been payable if
3 the member had retired immediately prior to his or her death
4 and had elected Option 3, as set forth in subsection (j) ~~or~~
5 alternatively. Alternatively, if the surviving spouse or other
6 designee desires, he or she may choose to receive, in lieu of
7 the allowance provided under Option 2 or Option 3, the
8 accumulated contributions of the member plus an amount equal
9 to the accumulated contributions of the member not to exceed
10 ~~\$5,000~~ five thousand dollars (\$5,000) or the accumulated
11 contributions of the member plus the benefit provided by
12 Section 36-27B-3 if a benefit is payable under ~~such that~~
13 section. For purposes of this subsection only, hazardous duty
14 time, as set forth in subdivision (b) (1) of Section 36-27-59,
15 may be used in calculating the requisite years of service for
16 firefighters, law enforcement officers, and correctional
17 officers even if the member has not otherwise attained 25
18 years of creditable service.

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

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

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

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

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

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

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

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

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

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

12 "(1) (1) All retirement allowance payments due on or
13 after October 1, 1975, to members who retired prior to October
14 1, 1975, shall be redetermined as if the provisions of
15 subsections (b) and (e) of this section which became effective
16 on said date were in effect at the time the member retired;
17 provided, that the annual retirement allowance of any member
18 who retired on or before January 1, 1956, shall be not less
19 than ~~\$132~~ one hundred thirty-two dollars (\$132) multiplied by
20 the number of years of his or her creditable service not in
21 excess of 30 years in the case of service retirement or ~~\$99~~
22 ninety-nine dollars (\$99) multiplied by the number of years of
23 creditable service not in excess of 30 years in the case of
24 disability retirements. Any increase provided in the
25 retirement allowance payment under this subsection for a
26 member who retired under the provisions of any optional
27 benefit elected pursuant to subsection (j) of this section

1 shall accrue only to the retired member, and no person
2 designated to receive any payments after the death of a
3 retired member under the provisions of any ~~such~~ optional
4 benefit shall receive any increase in ~~such~~ payments under this
5 subsection.

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

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

1 designation duly acknowledged and filed with the Board of
2 Control.

3 "(m) Notwithstanding any other provisions of this
4 section to the contrary, when a designated beneficiary for a
5 member predeceases the member who is receiving a monthly
6 benefit allowance provided under Option 2, 3, or 4, the member
7 may designate a replacement beneficiary for the deceased
8 beneficiary to become effective two years after the date of
9 designation of the replacement beneficiary and an actuarial
10 adjustment in the monthly benefit allowance of the member to
11 cover any cost associated with designating a replacement
12 beneficiary shall be reflected thereafter in the monthly
13 benefit allowance received by the member, commencing with the
14 first benefit allowance check received by the member following
15 the date of designation of the replacement beneficiary.

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

1 check received by the member following the date of designation
2 of the replacement beneficiary.

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

7 "§36-27-16.

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

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

1 "b. Any Tier I plan member who has attained age 60,
2 or age 52 in the case of a state policeman and any Tier II
3 plan member who has attained age 62, or age 56 in the case of
4 a state policeman or in the case of a correctional officer,
5 firefighter, or law enforcement officer as defined in Section
6 36-27-59 who has at least ~~ten~~ 10 years of creditable service
7 as a correctional officer, firefighter, or law enforcement
8 officer, and has previously withdrawn from service may retire
9 upon written application to the Board of Control setting forth
10 at what time, not less than 30 days nor more than 90 days
11 subsequent to the execution and filing thereof, he or she
12 desires to be retired; provided, the member shall have at the
13 time of his or her withdrawal from service completed the age
14 and service requirements established by the Board of Control
15 for eligibility for deferred benefits; provided, that ~~such~~ the
16 minimum number of years of creditable service shall not be
17 less than 10 years nor more than 25 years.

18 "c. In addition to any law or part of law relating
19 to service retirement under the Employees' Retirement System
20 of Alabama, any Tier I plan member of the Employees'
21 Retirement System who withdraws from service after completion
22 of not less than 25 years of creditable service may retire
23 without a reduction in retirement allowance upon written
24 application to the Board of Control of the Employees'
25 Retirement System setting forth the first day of which month,
26 not less than 30 days or more than 90 days subsequent to the
27 execution and filing thereof, he or she desires to be retired,

1 provided that no person whose employer participates in the
2 Employees' Retirement System under Section 36-27-6 shall be
3 entitled to the benefits provided in this paragraph unless
4 ~~such~~ the employer elects to come under the provisions of the
5 paragraph. Any employer making ~~such~~ this election must bear
6 the cost of ~~such~~ the benefit.

7 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

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

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

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

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

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

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

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

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

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

4 "2. If he or she became a member before October 1,
5 1965, ~~\$72.00~~ seventy-two dollars (\$72) multiplied by the
6 number of years of his or her creditable service not in excess
7 of 25 years.

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

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

22 "2. If he or she became a member before October 1,
23 1965, ~~\$86.40~~ eighty-six dollars forty cents (\$86.40)
24 multiplied by the number of years of his or her creditable
25 service not in excess of 25 years; provided, however, that if
26 ~~such~~ the member has completed 20 years of creditable service
27 as a state policeman and has not attained age 60 at the time

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

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

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

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

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

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

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

3 "a. Upon application of a Tier I plan member in
4 service or of his or her employer, any member who has had 10
5 or more years of creditable service who becomes disabled may
6 be retired on a disability retirement allowance by the Board
7 of Control not less than 30 nor more than 90 days next
8 following the date of filing of ~~such~~ the application;
9 provided, that the medical board, after a medical examination
10 of ~~such~~ the member, shall certify that ~~such~~ the member is
11 mentally or physically incapacitated for the further
12 performance of duty, that ~~such~~ the incapacity is likely to be
13 permanent and that ~~such~~ the member should be retired. Upon the
14 application of a Tier II plan member in service or his or her
15 employer, any member who has had 10 or more years of
16 creditable service may be retired by the Board of Control on a
17 disability retirement allowance not less than 30 nor more than
18 90 days next following the date of filing ~~such~~ the
19 application; provided, that the medical board, after a medical
20 examination of ~~such~~ the member, shall certify that the member
21 is totally and permanently mentally or physically
22 incapacitated from regular and substantial gainful employment,
23 and that member should be retired.

24 "b. Without regard to the number of years of
25 creditable service, a member employed as a state policeman, a
26 municipal police officer or a deputy sheriff, or a member
27 employed as a state, municipal, or county firefighter who is

1 not covered through his or her current employer under the
2 United States Social Security Act, who as a result of his or
3 her employment, in the line of duty and not as a result of his
4 or her own misconduct, shall become permanently and totally
5 disabled to the extent that he or she cannot perform his or
6 her duties or duties of a less strenuous nature, as an
7 employee of the State of Alabama or as an employee of an
8 employer participating under the provisions of Section
9 36-27-6, shall be retired on a disability retirement
10 allowance, not less than 30 nor more than 90 days next
11 following the date of filing of ~~such~~ the application, provided
12 that the medical board, after a medical examination of ~~such~~
13 the member shall certify that ~~such~~ the member is mentally or
14 physically incapacitated for the further performance of duty,
15 that ~~such~~ the incapacity is likely to be permanent, and that
16 ~~such~~ the member should be retired.

17 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

18 "a. Upon retirement for disability a member shall
19 receive a service retirement allowance if he or she is a Tier
20 I plan member and he or she has attained age 60 or if he or
21 she is a Tier II plan member and he or she has attained age
22 62, or if any law or part of any law pertaining to retirement
23 under the Employees' Retirement System of Alabama provides for
24 service retirement after the completion of 25 years of
25 creditable service without a reduction in the retirement
26 allowance and the member has completed 25 years of creditable
27 service, or, in the case of a state policeman, if he or she is

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

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

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

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

23 "1. Two and one-eightieth percent of the member's
24 average final compensation multiplied by the number of years
25 of creditable service.

26 "2. If he or she became a member before October 1,
27 1965, ~~\$54.00~~ fifty-four dollars (\$54) multiplied by the number

1 of years of his or her creditable service not in excess of 25
2 years.

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

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

17 "2. If he or she became a member before October 1,
18 1965, ~~\$64.80~~ sixty-four dollars eighty cents (\$64.80)
19 multiplied by the number of years of his or her creditable
20 service not in excess of 25 years.

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

26 "e. The annual disability retirement allowance
27 payable to a Tier II plan member employed as a state policeman

1 shall be equal to two and three-eighths percent (2.375%) of
2 the member's average final compensation multiplied by the
3 number of years of creditable service.

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

17 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
18 ACCOUNT OF DISABILITY. Once each year during the first five
19 years following the retirement of a member on a disability
20 retirement allowance and once every three-year period
21 thereafter, the Board of Control may, and upon his or her
22 application shall, require any disability beneficiary who has
23 not yet attained age 60 if the beneficiary is a Tier I plan
24 member or age 62 if the beneficiary is a Tier II plan member
25 to undergo a medical examination, ~~such~~ the examination to be
26 made at the place of residence of ~~such~~ the beneficiary or
27 other place mutually agreed upon by a physician or physicians

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

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

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

13 "(c) Disposition of contributions and allowances
14 upon death, etc., of member.

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

1 eight-tenths of ~~such~~ the interest accumulations if he or she
2 shall have not less than 26 years of membership service.

3 "(2) In case of the death of a member eligible for
4 service retirement pursuant to subsection (a) of this section,
5 an allowance shall be paid to the surviving spouse, if
6 designated as the sole beneficiary, in an amount that would
7 have been payable if the member had retired immediately prior
8 to his or her death and had elected Option 2, as set forth in
9 subsection (d) of this section, or to such other person who
10 the member shall have designated, in an amount that would have
11 been payable if the member had retired immediately prior to
12 his or her death and had elected Option 3, as set forth in
13 subsection (d) of this section ~~or, alternatively.~~

14 Alternatively, if the surviving spouse or other designee
15 desires, he or she may choose to receive, in lieu of the
16 allowance provided under Option 2 or Option 3, the accumulated
17 contributions of the member plus an amount equal to the
18 accumulated contributions of the member not to exceed
19 ~~\$5,000.00~~ five thousand dollars (\$5,000) or the accumulated
20 contributions of the member plus the benefit provided by
21 Section 36-27B-3 if a benefit is payable under ~~such~~ that
22 section;

23 "(3) In case of the death of a Tier I plan member
24 not eligible for service retirement, after completion of 25
25 years of creditable service, an allowance shall be paid to the
26 surviving spouse, if designated as the sole beneficiary, in an
27 amount that would have been payable if the member had retired

1 immediately prior to his or her death and had elected Option
2 2, as set forth in subsection (d) of this section, or to such
3 other person who the member shall have designated, in an
4 amount that would have been payable if the member had retired
5 for disability immediately prior to his or her death and had
6 elected Option 3 as set forth in subsection (d) of this
7 section ~~or, alternatively.~~ Alternatively, if the surviving
8 spouse or other designee desires, he or she may choose to
9 receive, in lieu of the allowance provided under Option 2 or
10 Option 3, the accumulated contributions of the member plus an
11 amount equal to the accumulated contributions of the member
12 not to exceed ~~\$5,000.00~~ five thousand dollars (\$5,000) or the
13 accumulated contributions of the member plus the benefit
14 provided by Section 36-27B-3 if a benefit is payable under
15 ~~such that~~ that section. For purposes of this subsection only,
16 hazardous duty time, as set forth in subdivision (b)(1) of
17 Section 36-27-59, may be used in calculating the requisite
18 years of service for firefighters, law enforcement officers,
19 and correctional officers even if the member has not otherwise
20 attained 25 years of creditable service;

21 "(4) Upon the death of a member on account of whom
22 no survivor allowance is payable under subdivisions (2) or (3)
23 of this subsection, the accumulated contributions of the
24 member plus an amount equal to the accumulated contributions
25 not to exceed ~~\$5,000~~ five thousand dollars (\$5,000) or the
26 accumulated contributions of the member plus the benefit
27 provided by Section 36-27B-3 if a benefit is payable under

1 ~~such~~ that section shall be paid to his or her estate or to
2 such person as he or she shall have nominated by written
3 designation duly executed and filed with the Board of Control.

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

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

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

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

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

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

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

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

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

1 the retirement allowance payment under this subdivision for a
2 member who retired under the provisions of any optional
3 benefit elected pursuant to subsection (d) of this section
4 shall accrue only to the retired member, and no person
5 designated to receive any payments after the death of a
6 retired member under the provisions of any ~~such~~ optional
7 benefit shall receive any increase in ~~such~~ payments under this
8 subdivision. Notwithstanding, any member who retired prior to
9 October 1, 1975, and who chose either Option 2 or Option 3 may
10 elect to receive a reduced allowance and to stipulate that the
11 actuarial equivalent of the increase in his or her retirement
12 allowance, which became effective on that date, be ascribed to
13 his or her designated beneficiary; provided, that ~~such~~ the
14 member shall clearly express this intention by filing a
15 written application to the effect with the Secretary-Treasurer
16 of the Employees' Retirement System of Alabama prior to
17 October 1, 1976.

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

24 "a. If ~~such~~ the person was retired on or before
25 January 1, 1956, an amount equal to ~~\$79.20~~ seventy-nine
26 dollars twenty cents (\$79.20) multiplied by the number of

1 years of his or her creditable service not in excess of 30
2 years.

3 "b. If ~~such~~ the person was retired after January 1,
4 1956, an amount equal to ~~\$72.00~~ seventy-two dollars (\$72)
5 multiplied by the number of years of his or her creditable
6 service not in excess of 25 years.

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

22 "(g) Notwithstanding any other provisions of this
23 section to the contrary, when a designated beneficiary for a
24 member predeceases the member who is receiving a monthly
25 benefit allowance provided under Option 2, 3, or 4, the member
26 may designate a replacement beneficiary for the deceased
27 beneficiary to become effective two years after the date of

1 designation of the replacement beneficiary and an actuarial
2 adjustment in the monthly benefit allowance of the member to
3 cover any cost associated with designating a replacement
4 beneficiary shall be reflected thereafter in the monthly
5 benefit allowance received by the member, commencing with the
6 first benefit allowance check received by the member following
7 the date of designation of the replacement beneficiary.

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

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

25 Section 2. This act shall become effective
26 retroactive to September 1, 2021, following its passage and
27 approval by the Governor, or its otherwise becoming law.

