

1 SB57  
2 197416-1  
3 By Senator Ward  
4 RFD: Governmental Affairs  
5 First Read: 05-MAR-19

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8 SYNOPSIS: Existing law provides for the payment of  
9 retirement benefits to members of the Judicial  
10 Retirement Fund, the Teachers' Retirement System,  
11 and the Employees' Retirement System.

12 This bill would enable the Judicial  
13 Retirement Fund, the Teachers' Retirement System,  
14 and the Employees' Retirement System to pay the  
15 retirement allowance to a special needs trust where  
16 the member has designated as beneficiary a  
17 beneficiary of a special needs trust.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 Relating to the Retirement Systems of Alabama; to  
24 amend Sections 12-18-156, 16-25-14, and 36-27-16, Code of  
25 Alabama 1975, to provide that a member of the Retirement  
26 Systems of Alabama may designate that a portion of his or her

1 retirement benefits be paid to a special needs trust for the  
2 benefit of a dependent child.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 12-18-156, 16-25-14, and  
5 36-27-16, Code of Alabama 1975, are amended to read as  
6 follows:

7 "§12-18-156.

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

23 "(b) In case of the death of a member eligible for  
24 service retirement pursuant to Section 12-18-154, an allowance  
25 shall be paid to the surviving spouse, or to such other person  
26 who the member shall have designated, in an amount that would  
27 have been payable if the member had retired immediately prior

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

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

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

26 "(1) OPTION 1. If he or she dies before he or she  
27 has received in annuity payments the present value of his or

1 her annuity as it was at the time of his or her retirement,  
2 the balance shall be paid to his or her legal representatives  
3 or to ~~such~~ the person as he or she shall nominate by written  
4 designation duly acknowledged and filed with the Board of  
5 Control;

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

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

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

25 "(5) Where the person designated by the member under  
26 this subsection to receive a continued retirement allowance is  
27 a beneficiary of a special needs trust established under Title

1     42, United States Code, Section 1396p(d)(4)(A) or (C), as  
2     amended, the retirement allowance payable to the person may be  
3     paid by the retirement system to the special needs trust upon  
4     written direction to the retirement system by the member or,  
5     after the member is deceased, by the designated person or by  
6     his or her legal representative if the designated person is a  
7     minor or is incapacitated.

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

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

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

7 "§16-25-14.

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

23 "(2) Any Tier I plan member who has attained age 60  
24 and any Tier II plan member who has attained age 62, or in the  
25 case of a Tier II plan member who is a correctional officer,  
26 firefighter, or law enforcement officer as defined in Section  
27 36-27-59, who has attained age 56 with at least ten years of

1       creditable service as a correctional officer, firefighter, or  
2       law enforcement officer and has previously withdrawn from  
3       service may retire upon written application to the Board of  
4       Control setting forth at what time, not less than 30 days nor  
5       more than 90 days subsequent to the execution and filing  
6       thereof, he or she desires to be retired; provided, that the  
7       member shall have completed at the time for his or her  
8       withdrawal from service the requirements established by the  
9       Board of Control for eligibility for deferred benefits  
10      pursuant to Section 16-25-3.

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

24               "(4) Any Tier I plan member of the Teachers'  
25      Retirement System of Alabama, who withdraws from service after  
26      the completion of at least 25 years of creditable service, may  
27      retire upon written application to the Board of Control of the



1 Teachers' Retirement System setting forth at what time, not  
2 less than 30 days nor more than 90 days subsequent to the  
3 execution and filing thereof, he or she desires to be retired;  
4 provided, that any such member who became a Tier I plan member  
5 on or after October 1, 1963 shall have completed 10 or more  
6 years of creditable service.

7 "(b) Upon retirement from service, a Tier I plan  
8 member shall receive a service retirement allowance which  
9 shall consist of:

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

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

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

1 had progressed with the rates of salary increase shown in the  
2 tables as prescribed in subsection (o) of Section 16-25-19,  
3 would have resulted in the same average salary of the member  
4 for the five years immediately preceding the date of  
5 establishment as the records show the member actually  
6 received.

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

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

15 "(2) If he or she became a member before October 1,  
16 1971, \$72 multiplied by the number of years of his or her  
17 creditable service not in excess of 25 years.

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

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

1 hundredths percent (1.65%) of the member's average final  
2 compensation multiplied by the number of years of creditable  
3 service. Notwithstanding the foregoing, the service retirement  
4 allowance shall not exceed eighty percent (80%) of the  
5 member's average final compensation.

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

26 "(f) Upon retirement for disability, a Tier I plan  
27 member shall receive a service retirement allowance if he or

1 she has attained age 60 or if any law or part of any law  
2 pertaining to retirement under the Teachers' Retirement System  
3 of Alabama provides for service retirement after the  
4 completion of 25 years of creditable service and the member  
5 has completed 25 years of creditable service; otherwise, he or  
6 she shall receive a disability retirement allowance which  
7 shall consist of:

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

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

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

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

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

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

1 by the number of years of his or her creditable service not in  
2 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 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 examination to be made at the place of residence of such  
23 beneficiary or other place mutually agreed upon by a physician  
24 of or designated by the medical board. Should any disability  
25 beneficiary who has not yet attained age 60 for a Tier I plan  
26 member or age 62 for a Tier II plan member refuse to submit to  
27 such medical examination, his or her pension may be

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

11 "(2) Should the medical board report and certify to  
12 the Board of Control that a disability beneficiary who is a  
13 Tier I plan member is engaged in or is able to engage in a  
14 gainful occupation paying more than the difference between his  
15 or her retirement allowance and his average final compensation  
16 and should the Board of Control concur in such report, then  
17 the amount of his or her pension shall be reduced to an amount  
18 which, together with his or her annuity and the amount  
19 earnable by him or her, shall equal the amount of his or her  
20 average final compensation. Should his or her earning capacity  
21 be later changed, the amount of his or her pension may be  
22 further modified; provided, that the new pension shall not  
23 exceed the amount of the pension originally granted nor an  
24 amount which, when added to the amount earnable by the  
25 beneficiary together with his or her annuity, equals the  
26 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  
12 payment there shall be paid five-tenths of the interest  
13 accumulations standing to the credit of his or her individual  
14 account if he or she shall have not less than three but less  
15 than 16 years of membership service, six-tenths of such  
16 interest accumulations if he or she shall have not less than  
17 16 but less than 21 years of membership service, seven-tenths  
18 of such interest accumulations if he or she shall have not  
19 less than 21 but less than 26 years of membership service, and  
20 eight-tenths of such interest accumulations if he or she shall  
21 have not less than 26 years of membership service.

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

1 3, as set forth in subsection (j) of this section or,  
2 alternatively, if the surviving spouse or other designee  
3 desires, he or she may choose to receive, in lieu of the  
4 allowance provided under Option 3, the accumulated  
5 contributions of the member plus an amount equal to the  
6 accumulated contributions of the member not to exceed \$5,000  
7 or the accumulated contributions of the member plus the  
8 benefit provided by Section 36-27B-3 if a benefit is payable  
9 under such section.

10 "(3) Upon the death of a member on account of whom  
11 no survivor allowance is payable under subdivision (2) of this  
12 subsection, the accumulated contributions of the member plus  
13 an amount equal to the accumulated contributions not to exceed  
14 \$5,000 or the accumulated contributions of the member plus the  
15 benefit provided by Section 36-27B-3 if a benefit is payable  
16 under such section shall be paid to his or her estate or to  
17 such person as he shall have nominated by written designation  
18 duly executed and filed with the Board of Control.

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

26 "(1) OPTION 1. If he or she dies before he or she  
27 has received in annuity payments the present value of his or



1 her annuity as it was at the time of his or her retirement,  
2 the balance shall be paid to his or her legal representatives  
3 or to ~~such~~ the person as he or she shall nominate by written  
4 designation duly acknowledged and filed with the Board of  
5 Control;

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

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

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

25 "(5) Where the person designated by the member under  
26 this subsection to receive a continued retirement allowance is  
27 a beneficiary of a special needs trust established under Title

1     42, United States Code, Section 1396p(d)(4)(A) or (C), as  
2     amended, the retirement allowance payable to the person may be  
3     paid by the retirement system to the special needs trust upon  
4     written direction to the retirement system by the member or,  
5     after the member is deceased, by the designated person or by  
6     his or her legal representative if the designated person is a  
7     minor or is incapacitated.

8             "(k) Should any beneficiary be restored to active  
9     service, his or her retirement allowance shall be suspended  
10    until he or she again withdraws from service and, he or she  
11    shall not again become a member, nor shall he or she make  
12    contributions; except, that should such beneficiary who has  
13    been restored to active service continue in service for a  
14    period of two or more years from the date of his or her  
15    reentry into active service, he or she may request the Board  
16    of Control to allow him or her to again become a member of the  
17    retirement system. The Board of Control may grant the request  
18    for restoration to membership; provided, that such beneficiary  
19    whose retirement allowance has been suspended shall repay to  
20    the system all moneys received by him or her as benefits  
21    during any period subsequent to the date of his or her reentry  
22    into active service; provided further, that he or she shall  
23    make a contribution equal to the amount he or she would have  
24    contributed had he or she been a member during the period of  
25    his or her restoration to active service on a suspended  
26    allowance basis, together with the interest which would have

1       been credited to the contributions on account of such period  
2       of restoration up to the date such contribution is made.

3               "(1) (1) All retirement allowance payments due on or  
4       after October 1, 1975, to members who retired prior to October  
5       1, 1975, shall be redetermined as if the provisions of  
6       subsections (b) and (e) of this section which became effective  
7       on said date were in effect at the time the member retired;  
8       provided, that the annual retirement allowance of any member  
9       who retired on or before January 1, 1956, shall be not less  
10      than \$132 multiplied by the number of years of his or her  
11      creditable service not in excess of 30 years in the case of  
12      service retirement or \$99 multiplied by the number of years of  
13      creditable service not in excess of 30 years in the case of  
14      disability retirements. Any increase provided in the  
15      retirement allowance payment under this subsection for a  
16      member who retired under the provisions of any optional  
17      benefit elected pursuant to subsection (j) of this section  
18      shall accrue only to the retired member, and no person  
19      designated to receive any payments after the death of a  
20      retired member under the provisions of any such optional  
21      benefit shall receive any increase in such payments under this  
22      subsection.

23              "(2) Any person who served at least 30 years as a  
24      teacher in the public schools of Alabama and was never a  
25      member of the system and who, prior to October 1, 1963, was in  
26      receipt of a benefit for old age assistance pursuant to  
27      subsections (1) and (2) of Section 1 of Act 116, approved

1 August 24, 1959, shall be entitled to receive an annual  
2 retirement allowance of \$3,960 from the system, effective as  
3 of October 1, 1973.

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

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

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

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

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

21 "§36-27-16.

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

24 "a. Any Tier I plan member who withdraws from  
25 service upon or after attainment of age 60 and any Tier II  
26 plan member who withdraws from service upon or after  
27 attainment of age 62 may retire upon written application to

1 the Board of Control setting forth at what time, not less than  
2 30 days nor more than 90 days subsequent to the execution and  
3 filing thereof, he or she desires to be retired; provided,  
4 that any such member who became a member on or after October  
5 1, 1963, shall have completed 10 or more years of creditable  
6 service; provided further, that a Tier I plan member employed  
7 as a state policeman shall be eligible to file application for  
8 service retirement upon attaining age 52 and a Tier II plan  
9 member employed as a state policeman or employed as a  
10 correctional officer, firefighter, or law enforcement officer  
11 as defined in Section 36-27-59 with at least ten years of  
12 creditable service as a correctional officer, firefighter, or  
13 law enforcement officer shall be eligible to file application  
14 for service retirement upon attaining age 56.

15 "b. Any Tier I plan member who has attained age 60,  
16 or age 52 in the case of a state policeman and any Tier II  
17 plan member who has attained age 62, or age 56 in the case of  
18 a state policeman or in the case of a correctional officer,  
19 firefighter, or law enforcement officer as defined in Section  
20 36-27-59 who has at least ten years of creditable service as  
21 a correctional officer, firefighter, or law enforcement  
22 officer, and has previously withdrawn from service may retire  
23 upon written application to the Board of Control setting forth  
24 at what time, not less than 30 days nor more than 90 days  
25 subsequent to the execution and filing thereof, he or she  
26 desires to be retired; provided, the member shall have at the  
27 time of his or her withdrawal from service completed the age

1 and service requirements established by the Board of Control  
2 for eligibility for deferred benefits; provided, that such  
3 minimum number of years of creditable service shall not be  
4 less than 10 years nor more than 25 years.

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

21 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

22 "a. Upon retirement from service a Tier I plan  
23 member shall receive a service retirement allowance which  
24 shall consist of:

25 "1. An annuity which shall be the actuarial  
26 equivalent of his or her accumulated contributions at the time  
27 of his or her retirement; except, that in the case of a state

1 policeman who has completed 20 years of creditable service as  
2 a state policeman who retires after age 56 but prior to age  
3 60, the annuity shall be equal to the annuity that would have  
4 been payable upon service retirement at age 60 had the member  
5 continued in service to age 60 without change in compensation;

6 "2. A pension which shall be equal to the annuity  
7 allowance at age of retirement, but not to exceed an annuity  
8 allowable at age 65, computed on the basis of contributions  
9 made prior to attainment of age 65; except, that in the case  
10 of a state policeman who has completed 20 years of creditable  
11 service as a state policeman who retires after age 56 but  
12 prior to age 60, the pension shall be equal to the annuity  
13 that he or she would have received had he or she contributed  
14 to age 60 without change in compensation; and

15 "3. An additional pension, if he or she has a prior  
16 service certificate in full force and effect, which shall be  
17 equal to the annuity which would have been provided at the age  
18 of retirement, but which shall not exceed an annuity allowable  
19 at age 65 by twice the contributions which he or she would  
20 have made during the period of prior service with which he or  
21 she is credited had the system been in operation and had he or  
22 she contributed thereunder; except, that in case of a state  
23 policeman who has completed 20 years of creditable service as  
24 a state policeman who retired after age 56 but prior to age  
25 60, an additional pension, if he or she has a prior service  
26 certificate in full force and effect, which shall be equal to  
27 the annuity which would have been provided at age 60, but



1       which shall not exceed an annuity allowable at age 60 by twice  
2       the contributions which he or she would have made during the  
3       period of prior service with which he or she is credited had  
4       the system been in operation and had he or she contributed  
5       thereunder.

6                "b. Notwithstanding the provisions of subparagraphs  
7       1, 2, and 3 of paragraph a. of this subdivision, a state  
8       policeman who is a Tier I plan member and who has completed 20  
9       years of service as a state policeman who retires after age 52  
10      but prior to age 56 shall receive:

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

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

17               "3. An additional pension, if he or she has a prior  
18      service certificate in full force and effect, which shall be  
19      equal to the annuity which would have been provided at the age  
20      of retirement, but which shall not exceed an annuity allowable  
21      at the age of retirement plus four years by twice the  
22      contributions which he or she would have made during the  
23      period of prior service with which he or she is credited had  
24      the system been in operation and had he or she contributed  
25      thereunder. In lieu of a determination of the actual  
26      compensation of a member that was received during such prior  
27      service, the Board of Control may use for the purpose of this

1 article the compensation rate which, if it had progressed with  
2 the rates of salary increase shown in the tables as prescribed  
3 in subsection (n) of Section 36-27-23, would have resulted in  
4 the same average salary of the member for the five years  
5 immediately preceding the date of establishment as the records  
6 show the member actually received.

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

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

15 "2. If he or she became a member before October 1,  
16 1965, \$72.00 multiplied by the number of years of his or her  
17 creditable service not in excess of 25 years.

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

23 "1. Two and seven-eighths percent of the member's  
24 average final compensation multiplied by the number of years  
25 of his or her creditable service. Creditable service for any  
26 state policeman under the age of 56 years who has completed 20  
27 years of creditable service as a state policeman shall include

1 a bonus equal to four additional years. Creditable service for  
2 a state policeman 56 years or older shall include a bonus  
3 equal to the years or portion thereof remaining until the  
4 member reaches age 60; or

5 "2. If he or she became a member before October 1,  
6 1965, \$86.40 multiplied by the number of years of his or her  
7 creditable service not in excess of 25 years; provided,  
8 however, that if such member has completed 20 years of  
9 creditable service as a state policeman and has not attained  
10 age 60 at the time of retirement, the pension shall be  
11 determined as provided in this subparagraph on the basis of  
12 the number of years of creditable service which he or she  
13 would have had if he or she had remained in service for four  
14 years, except that, in the case of those state policemen  
15 retiring at age 56 or after, the number of years in  
16 determining the pension shall not exceed the number of years  
17 of creditable service which he or she would have had if he or  
18 she had remained in service to age 60.

19 "e. Upon retirement from service, a Tier II plan  
20 member who is not employed as a state policeman shall receive  
21 a service retirement allowance which shall consist of an  
22 annuity which shall be the actuarial equivalent of the  
23 member's accumulated contributions at the time of retirement  
24 and a pension which, when added to the member's annuity, shall  
25 be equal to one and sixty-five hundredths percent (1.65%) of  
26 the member's average final compensation multiplied by the  
27 number of years of creditable service. Notwithstanding the

1       foregoing, the service retirement allowance shall not exceed  
2       eighty percent (80%) of the member's average final  
3       compensation.

4               "f. Upon retirement from service, a Tier II plan  
5       member who is employed as a state policeman shall receive a  
6       service retirement allowance which shall consist of an annuity  
7       which shall be the actuarial equivalent of the member's  
8       accumulated contributions at the time of retirement and a  
9       pension which, when added to the member's annuity, shall be  
10      equal to two and three-eighths percent (2.375%) of the  
11      member's average final compensation multiplied by the member's  
12      number of years of creditable service. Notwithstanding the  
13      foregoing, the service retirement allowance shall not exceed  
14      eighty percent (80%) of the member's average final  
15      compensation.

16              "g. Anything in this article to the contrary  
17      notwithstanding, in the application of the foregoing  
18      provisions of this subdivision to a member whose creditable  
19      service includes a period of service as a state policeman and  
20      a period of service in another employment classification, the  
21      benefit rates applicable to a member employed as a state  
22      policeman shall apply to all creditable service as a state  
23      policeman, and the benefit rates applicable to a member not  
24      employed as a state policeman shall apply to all creditable  
25      service, but in all other respects the pension under this  
26      subdivision shall be determined on the basis of the member's

1 employment classification at the time of his or her withdrawal  
2 from service.

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

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

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

1 of filing such application; provided, that the medical board,  
2 after a medical examination of such member, shall certify that  
3 the member is totally and permanently mentally or physically  
4 incapacitated from regular and substantial gainful employment,  
5 and that such member should be retired.

6 "b. Without regard to the number of years of  
7 creditable service, a member employed as a state policeman, a  
8 municipal police officer or a deputy sheriff, or a member  
9 employed as a state, municipal, or county firefighter who is  
10 not covered through his or her current employer under the  
11 United States Social Security Act, who as a result of his or  
12 her employment, in the line of duty and not as a result of his  
13 or her own misconduct, shall become permanently and totally  
14 disabled to the extent that he or she cannot perform his or  
15 her duties or duties of a less strenuous nature, as an  
16 employee of the State of Alabama or as an employee of an  
17 employer participating under the provisions of Section  
18 36-27-6, shall be retired on a disability retirement  
19 allowance, not less than 30 nor more than 90 days next  
20 following the date of filing of such application, provided  
21 that the medical board, after a medical examination of such  
22 member shall certify that such member is mentally or  
23 physically incapacitated for the further performance of duty,  
24 that such incapacity is likely to be permanent, and that such  
25 member should be retired.

26 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

1           "a. Upon retirement for disability a member shall  
2 receive a service retirement allowance if he or she is a Tier  
3 I plan member and he or she has attained age 60 or if he or  
4 she is a Tier II plan member and he or she has attained age  
5 62, or if any law or part of any law pertaining to retirement  
6 under the Employees' Retirement System of Alabama provides for  
7 service retirement after the completion of 25 years of  
8 creditable service without a reduction in the retirement  
9 allowance and the member has completed 25 years of creditable  
10 service, or, in the case of a state policeman, if he or she is  
11 a Tier I plan member and he or she has attained age 52 or, in  
12 the case of a state policeman or a correctional officer,  
13 firefighter, or law enforcement officer as defined in Section  
14 36-27-59 with at least ten years of creditable service as a  
15 correctional officer, firefighter, or law enforcement officer,  
16 if he or she is a Tier II plan member and he or she has  
17 attained age 56; otherwise, he or she shall receive a  
18 disability retirement allowance which shall consist of:

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

22               "2. A pension which shall be equal to the pension  
23 that would have been payable under subparagraphs 2 and 3 of  
24 paragraph a. of subdivision (2) of subsection (a) of this  
25 section upon service retirement at age 65 had the member  
26 continued in service to that age without change in  
27 compensation.

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

6            "1. Two and one-eightieth percent of the member's  
7 average final compensation multiplied by the number of years  
8 of creditable service.

9            "2. If he or she became a member before October 1,  
10 1965, \$54.00 multiplied by the number of years of his or her  
11 creditable service not in excess of 25 years.

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

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



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

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

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

14          "f. Anything in this chapter to the contrary  
15          notwithstanding in the application of the provisions of this  
16          subdivision to a member whose creditable service includes a  
17          period of service as a state policeman and a period of service  
18          in another employment classification the benefit rates  
19          applicable to a member employed as a state policeman shall  
20          apply to all creditable service as a state policeman, and the  
21          benefit rates applicable to a member not employed as a state  
22          policeman shall apply to all other creditable service, but in  
23          all other respects the pension under this subdivision shall be  
24          determined on the basis of the member's employment  
25          classification at the time of his or her withdrawal from  
26          service.

1           "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON  
2 ACCOUNT OF DISABILITY. Once each year during the first five  
3 years following the retirement of a member on a disability  
4 retirement allowance and once every three-year period  
5 thereafter, the Board of Control may, and upon his or her  
6 application shall, require any disability beneficiary who has  
7 not yet attained age 60 if the beneficiary is a Tier I plan  
8 member or age 62 if the beneficiary is a Tier II plan member  
9 to undergo a medical examination, such examination to be made  
10 at the place of residence of such beneficiary or other place  
11 mutually agreed upon by a physician or physicians of or  
12 designated by the medical board. Should any disability  
13 beneficiary who has not yet attained age 60 if the beneficiary  
14 is a Tier I plan member or age 62 if the beneficiary is a Tier  
15 II plan member refuse to submit to such medical examination,  
16 his or her allowance may be discontinued until his or her  
17 withdrawal of such refusal, and, should his or her refusal  
18 continue for one year, all his or her rights in and to his or  
19 her pension may be revoked by the Board of Control; provided,  
20 that these requirements relative to the medical examination  
21 shall not apply in the case of a state policeman retired for  
22 disability and who has attained age 52 if he or she is a Tier  
23 I plan member or in the case of a state policeman or a  
24 correctional officer, firefighter, or law enforcement officer  
25 as defined in Section 36-27-59 with at least ten years of  
26 creditable service as a correctional officer, firefighter, or  
27 law enforcement officer retired for disability who has

1       attained age 56 if he or she is a Tier II plan member. Should  
2       the medical board report and certify to the Board of Control  
3       that a disability beneficiary who is a Tier I plan member is  
4       engaged in or is able to engage in a gainful occupation paying  
5       more than the difference between his or her retirement  
6       allowance and his or her average final compensation and should  
7       the Board of Control concur in such report, then the amount of  
8       his or her pension shall be reduced to an amount which,  
9       together with his or her annuity and the amount earnable by  
10      him or her shall equal the amount of his or her average final  
11      compensation. Should his or her earning capacity be later  
12      changed, the amount of his or her pension may be further  
13      modified; provided, that the new pension shall not exceed the  
14      amount of the pension originally granted nor an amount which,  
15      when added to the amount earnable by the beneficiary, together  
16      with this annuity exceeds the amount of his or her average  
17      final compensation.

18                "Should the medical board report and certify to the  
19      Board of Control that a disability beneficiary who is a Tier  
20      II plan member has the capacity to engage in regular and  
21      substantial gainful employment, the Board of Control shall  
22      discontinue the beneficiary's retirement allowance until the  
23      beneficiary is otherwise eligible for service retirement.

24                "(c) Disposition of contributions and allowances  
25      upon death, etc., of member.

26                "(1) Should a member cease to be an employee except  
27      by death or by retirement under the provisions of this

1 article, the contributions standing to the credit of his or  
2 her individual account in the Annuity Savings Fund shall be  
3 paid to him or her upon demand and, in addition to such  
4 payment, there shall be paid five-tenths of the interest  
5 accumulations standing to the credit of his or her individual  
6 account if he or she shall have not less than three but less  
7 than 16 years of membership service, six-tenths of such  
8 interest accumulations if he or she shall have not less than  
9 16 but less than 21 years of membership service, seven-tenths  
10 of such interest accumulations if he or she shall have not  
11 less than 21 but less than 26 years of membership service and  
12 eight-tenths of such interest accumulations if he or she shall  
13 have not less than 26 years of membership service.

14 "(2) In case of the death of a member eligible for  
15 service retirement pursuant to subsection (a) of this section,  
16 an allowance shall be paid to the surviving spouse, or to such  
17 other person who the member shall have designated, in an  
18 amount that would have been payable if the member had retired  
19 immediately prior to his or her death and had elected Option  
20 3, as set forth in subsection (d) of this section or,  
21 alternatively, if the surviving spouse or other designee  
22 desires, he or she may choose to receive, in lieu of the  
23 allowance provided under Option 3, the accumulated  
24 contributions of the member plus an amount equal to the  
25 accumulated contributions of the member not to exceed  
26 \$5,000.00 or the accumulated contributions of the member plus

1 the benefit provided by Section 36-27B-3 if a benefit is  
2 payable under such section;

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

18 "(4) Upon the death of a member on account of whom  
19 no survivor allowance is payable under subdivisions (2) or (3)  
20 of this subsection, the accumulated contributions of the  
21 member plus an amount equal to the accumulated contributions  
22 not to exceed \$5,000 or the accumulated contributions of the  
23 member plus the benefit provided by Section 36-27B-3 if a  
24 benefit is payable under such section shall be paid to his or  
25 her estate or to such person as he or she shall have nominated  
26 by written designation duly executed and filed with the Board  
27 of Control.

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

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

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

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

1           "(4) OPTION 4. Some other benefit or benefits shall  
2 be paid either to the member or to ~~such~~ the person or persons  
3 as he or she shall nominate; provided, that such 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) Where the person designated by the member under  
9 this subsection to receive a continued retirement allowance is  
10 a beneficiary of a special needs trust established under Title  
11 42, United States Code, Section 1396p(d)(4)(A) or (C), as  
12 amended, the retirement allowance payable to the person may be  
13 paid by the retirement system to the special needs trust upon  
14 written direction to the retirement system by the member or,  
15 after the member is deceased, by the designated person or by  
16 his or her legal representative if the designated person is a  
17 minor or is incapacitated.

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

1 retirement system. The Board of Control may grant the request  
2 for restoration to membership; provided, that such beneficiary  
3 whose retirement allowance has been suspended shall repay to  
4 the system all moneys received by him or her as benefits  
5 during any periods subsequent to the date of his or her  
6 reentry into active service and shall make a contribution  
7 equal to the amount he or she would have contributed had he or  
8 she been a member during the period of his or her restoration  
9 to active service on a suspended allowance basis together with  
10 the interest which would have been credited to the  
11 contributions on account of such period of restoration up to  
12 the date such contribution is 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 multiplied by  
22 the number of years of his or her creditable service not in  
23 excess of 30 years in the case of service retirement of \$59.40  
24 multiplied by the number of years of his or her creditable  
25 service not in excess of 30 years in the case of disability  
26 retirement. Any increase provided in the retirement allowance  
27 payment under this subdivision for a member who retired under



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

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

23 "a. If such person was retired on or before January  
24 1, 1956, an amount equal to \$79.20 multiplied by the number of  
25 years of his or her creditable service not in excess of 30  
26 years.

1            "b. If such person was retired after January 1,  
2            1956, an amount equal to \$72.00 multiplied by the number of  
3            years of his or her creditable service not in excess of 25  
4            years.

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

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

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

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

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

23 Section 2. This act shall become effective on the  
24 first day of the third month following its passage and  
25 approval by the Governor, or its otherwise becoming law.