HB21

196334-2

By Representative Baker

RFD: Ways and Means Education

First Read: 05-MAR-19

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§16-25-14.

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

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law enforcement officer and has previously withdrawn from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

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

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

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

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

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

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

"(c) The annual service retirement pension payable to a Tier I plan member retiring on or after October 1, 1975, shall not be less than an amount which when added to his or her annuity is equal to the greater of the following two amounts:
"(1) Two and one-eighthieth percent of the member's average final compensation multiplied by the number of years of his or her creditable service; or

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

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

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

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

"(f) Upon retirement for disability, a Tier I plan member shall receive a service retirement allowance if he or she has attained age 60 or if any law or part of any law pertaining to retirement under the Teachers' Retirement System of Alabama provides for service retirement after the completion of 25 years of creditable service and the member has completed 25 years of creditable service; otherwise, he or she shall receive a disability retirement allowance which shall consist of:
An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of retirement; and

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

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

- Two and one-eighth percent of the member's average final compensation multiplied by the number of years of creditable service.
- If he or she became a member before October 1, 1971, $54 multiplied by the number of years of his or her creditable service not in excess of 25 years.

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

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

"(h)(1) Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the Board of Control may and upon his or her application shall require any disability beneficiary who has not yet attained age 60 for a Tier I plan member or age 62 for a Tier II plan member to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 for a Tier I plan member or age 62 for a Tier II plan member refuse to submit to such medical examination, his or her pension may be discontinued until his or her withdrawal of such refusal, and should his refusal continue for one year, all his or her rights in and to his or her pension may be revoked by the Board of Control; provided, that these requirements relative
to the medical examination shall not apply in the case of a Tier II plan member who is a correctional officer, firefighter, or law enforcement officer as defined in Section 36-27-59 retired for disability and who has attained age 56 with at least ten years of creditable service as a correctional officer, firefighter, or law enforcement officer.

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

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

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

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

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

"(j) With the provision the election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in lieu of his or her retirement allowance payable throughout life, the actuarial equivalent at that time of his or her retirement allowance in a reduced retirement allowance payable throughout life with the provision that:
(1) OPTION 1. If he or she dies before he or she has received in annuity payments the present value of his or her annuity as it was at the time of his or her retirement, the balance shall be paid to his or her legal representatives or to such person as he or she shall nominate by written designation duly acknowledged and filed with the Board of Control;

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

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

(4) OPTION 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he or she shall nominate; provided, that such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his or her retirement allowance and shall be approved by the Board of Control.
"(5) OPTION 5. At the time of retirement, he or she shall receive a partial lump sum distribution as a single payment not to exceed the sum of 24 months of the maximum monthly retirement allowance the member could receive. This option may be elected in addition to the election of another option under this subsection and the further reduced monthly retirement allowance shall be calculated in accordance with the selected option. This option shall not be available to a member who is receiving a disability retirement.

"(k) Should any beneficiary be restored to active service, his or her retirement allowance shall be suspended until he or she again withdraws from service and, he or she shall not again become a member, nor shall he or she make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his or her reentry into active service, he or she may request the Board of Control to allow him or her to again become a member of the retirement system. The Board of Control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received by him or her as benefits during any period subsequent to the date of his or her reentry into active service; provided further, that he or she shall make a contribution equal to the amount he or she would have
contributed had he or she been a member during the period of
his or her restoration to active service on a suspended
allowance basis, together with the interest which would have
been credited to the contributions on account of such period
of restoration up to the date such contribution is made.

"(l)(1) All retirement allowance payments due on or
after October 1, 1975, to members who retired prior to October
1, 1975, shall be redetermined as if the provisions of
subsections (b) and (e) of this section which became effective
on said date were in effect at the time the member retired;
provided, that the annual retirement allowance of any member
who retired on or before January 1, 1956, shall be not less
than $132 multiplied by the number of years of his or her
creditable service not in excess of 30 years in the case of
service retirement or $99 multiplied by the number of years of
creditable service not in excess of 30 years in the case of
disability retirements. Any increase provided in the
retirement allowance payment under this subsection for a
member who retired under the provisions of any optional
benefit elected pursuant to subsection (j) of this section
shall accrue only to the retired member, and no person
designated to receive any payments after the death of a
retired member under the provisions of any such optional
benefit shall receive any increase in such payments under this
subsection.
"(2) Any person who served at least 30 years as a teacher in the public schools of Alabama and was never a member of the system and who, prior to October 1, 1963, was in receipt of a benefit for old age assistance pursuant to subsections (1) and (2) of Section 1 of Act 116, approved August 24, 1959, shall be entitled to receive an annual retirement allowance of $3,960 from the system, effective as of October 1, 1973.

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

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

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

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

"§36-27-16.

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

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

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

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

"(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

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

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

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

"b. Notwithstanding the provisions of subparagraphs
1, 2, and 3 of paragraph a. of this subdivision, a state
policeman who is a Tier I plan member and who has completed 20
years of service as a state policeman who retires after age 52
but prior to age 56 shall receive:
"1. An annuity which shall be equal to the annuity that would have been payable had the member continued in service for four years without change in compensation;

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

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

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

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

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

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

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

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

"e. Upon retirement from service, a Tier II plan member who is not employed as a state policeman shall receive a service retirement allowance which shall consist of an annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement and a pension which, when added to the member's annuity, shall be equal to one and sixty-five hundredths percent (1.65%) of the member's average final compensation multiplied by the number of years of creditable service. Notwithstanding the foregoing, the service retirement allowance shall not exceed eighty percent (80%) of the member's average final compensation.
"f. Upon retirement from service, a Tier II plan member who is employed as a state policeman shall receive a service retirement allowance which shall consist of an annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement and a pension which, when added to the member's annuity, shall be equal to two and three-eighths percent (2.375%) of the member's average final compensation multiplied by the member's number of years of creditable service. Notwithstanding the foregoing, the service retirement allowance shall not exceed eighty percent (80%) of the member's average final compensation.

"g. Anything in this article to the contrary notwithstanding, in the application of the foregoing provisions of this subdivision to a member whose creditable service includes a period of service as a state policeman and a period of service in another employment classification, the benefit rates applicable to a member employed as a state policeman shall apply to all creditable service as a state policeman, and the benefit rates applicable to a member not employed as a state policeman shall apply to all creditable service, but in all other respects the pension under this subdivision shall be determined on the basis of the member's employment classification at the time of his or her withdrawal from service.
"h. The annual service retirement pension payable to any state employee who had attained age 60 on or before October 1, 1945, who declined membership in the Employees' Retirement System of Alabama in the manner prescribed in Section 36-27-4 and who retires as a state employee after completing a minimum of 15 years' service shall be $72.00 multiplied by the number of years of his or her service not in excess of 25 years.

"(b)(1) RETIREMENT OF DISABLED EMPLOYEES;

ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

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

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

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

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

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

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

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

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

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

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

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

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

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

f. Anything in this chapter to the contrary
notwithstanding in the application of the provisions of this
subdivision to a member whose creditable service includes a
period of service as a state policeman and a period of service
in another employment classification the benefit rates
applicable to a member employed as a state policeman shall
apply to all creditable service as a state policeman, and the
benefit rates applicable to a member not employed as a state
policeman shall apply to all other creditable service, but in
all other respects the pension under this subdivision shall be determined on the basis of the member's employment classification at the time of his or her withdrawal from service.

"(3) REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT OF DISABILITY. Once each year during the first five years following the retirement of a member on a disability retirement allowance and once every three-year period thereafter, the Board of Control may, and upon his or her application shall, require any disability beneficiary who has not yet attained age 60 if the beneficiary is a Tier I plan member or age 62 if the beneficiary is a Tier II plan member to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician or physicians of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 if the beneficiary is a Tier I plan member or age 62 if the beneficiary is a Tier II plan member refuse to submit to such medical examination, his or her allowance may be discontinued until his or her withdrawal of such refusal, and, should his or her refusal continue for one year, all his or her rights in and to his or her pension may be revoked by the Board of Control; provided, that these requirements relative to the medical examination shall not apply in the case of a state policeman retired for
disability and who has attained age 52 if he or she is a Tier I plan member or in the case of a state policeman or a correctional officer, firefighter, or law enforcement officer as defined in Section 36-27-59 with at least ten years of creditable service as a correctional officer, firefighter, or law enforcement officer retired for disability who has attained age 56 if he or she is a Tier II plan member. Should the medical board report and certify to the Board of Control that a disability beneficiary who is a Tier I plan member is engaged in or is able to engage in a gainful occupation paying more than the difference between his or her retirement allowance and his or her average final compensation and should the Board of Control concur in such report, then the amount of his or her pension shall be reduced to an amount which, together with his or her annuity and the amount earnable by him or her shall equal the amount of his or her average final compensation. Should his or her earning capacity be later changed, the amount of his or her pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary, together with this annuity exceeds the amount of his or her average final compensation.

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

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

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

"(2) In case of the death of a member eligible for service retirement pursuant to subsection (a) of this section, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have designated, in an
amount that would have been payable if the member had retired
immediately prior to his or her death and had elected Option
3, as set forth in subsection (d) of this section or,
alternatively, if the surviving spouse or other designee
desires, he or she may choose to receive, in lieu of the
allowance provided under Option 3, the accumulated
contributions of the member plus an amount equal to the
accumulated contributions of the member not to exceed
$5,000.00 or the accumulated contributions of the member plus
the benefit provided by Section 36-27B-3 if a benefit is
payable under such section;

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

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

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

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

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

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

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

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

"(e) Effect of return to active service. Should any beneficiary be restored to active service, his or her retirement allowance shall be suspended until he or she again withdraws from service and he or she shall not again become a member of the retirement system nor shall he or she make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his or her reentry into active service, he or she may request the Board of Control to allow him or her to again become a member of the retirement system. The Board of Control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received by him or her as benefits during any periods subsequent to the date of his or her reentry into active service and shall make a contribution equal to the amount he or she would have contributed had he or she been a member during the period of his or her restoration to active service on a suspended allowance basis together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made.
"(f)(1) REDETERMINATION, ETC., OF CERTAIN ALLOWANCES. All retirement allowance payments due on or after October 1, 1975, to members who retired prior to that date shall be redetermined as if the provisions of this section in effect on October 1, 1975, were in effect at the time the member retired. Anything in this article to the contrary notwithstanding, the annual retirement allowance of any member not employed as a state policeman who retired on or before January 1, 1956, shall not be less than $79.20 multiplied by the number of years of his or her creditable service not in excess of 30 years in the case of service retirement of $59.40 multiplied by the number of years of his or her creditable service not in excess of 30 years in the case of disability retirement. Any increase provided in the retirement allowance payment under this subdivision for a member who retired under the provisions of any optional benefit elected pursuant to subsection (d) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subdivision. Notwithstanding, any member who retired prior to October 1, 1975, and who chose either Option 2 or Option 3 may elect to receive a reduced allowance and to stipulate that the actuarial equivalent of the increase in his or her retirement
allowance, which became effective on that date, be ascribed to
his or her designated beneficiary; provided, that such member
shall clearly express this intention by filing a written
application to the effect with the Secretary-Treasurer of the
Employees' Retirement System of Alabama prior to October 1,
1976.

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

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

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

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

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

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

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

Section 2. In order to allow time for the Retirement Systems of Alabama and the Department of Finance to implement the lump-sum option provided in Section 1, Option 5, as provided in Section 1, shall become available to all members who have a retirement date on or after October 1, 2019.

Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
HB21

I hereby certify that the within Act originated in
and was passed by the House 04-APR-19.

Jeff Woodard
Clerk

Senate 23-MAY-19 Passed

APPROVED 5/29/19
TIME 2:57pm

Kay Ivey
GOVERNOR
HOUSE ACTION  
(Continued)

REPORT OF 2ND STANDING COMMITTEE
This bill having been referred by the House to its standing committee on __________________________ was acted upon by such a committee in session, and returned therefrom to the House with the recommendation that it be

Passed, w/amend(s) _____ w/sub _____
this ___ day of ____________, 20___.

__________________________, Chairperson

SENATE ACTION  
(Continued)

This bill having been referred to the Committee on Rules pursuant to Senate Rule 23 is reported to the Senate for assignment to the Committee on:

__________________________, Chairperson

This ___ day of ____________, 20___.

Signed (Committee Chairperson)

DATE: ____________

Refereed

Committee

DATE: ____________

This Bill was referred to the Standing Committee of the Senate on __________________________ and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) _____ w/sub _____ w/eng sub _____ by a vote of yeas ______ nays ______ abstain ______

DATE: ____________