Employees' Retirement System Board of Control Policy regarding Elections to Provide Tier I Benefits to Tier II Members by Local Employers

a) The following definitions shall apply for purposes of this policy:

   1) Board of Control. The Employees' Retirement System Board of Control.

   2) ERS. The Employees' Retirement System.

   3) Employer. An employer who participates in ERS pursuant to *Ala. Code* § 36-27-6.

b) An employer who elects to provide Tier I benefits to Tier II plan members as provided by *Ala. Code* § 36-27-6.5 must do so by adopting a resolution and submitting the resolution to ERS. This resolution must include a statement that "such election is subject to approval by the Employees' Retirement System Board of Control."

c) If the employer has not increased Tier I member contribution rates as provided in Act 2011-676, the employer must also submit a plan to ERS to increase the Tier I member contribution rates.

   1) The plan must have a time certain or an event trigger. Acceptable event triggers include the following:

      i) If the employer's funding level drops below a certain percentage;

      ii) If the employer's contribution rate rises above a certain percentage;

      iii) If the employer becomes unable to make its required employer contribution; or

      iv) Some other event trigger as approved by ERS staff.

   2) The plan should be submitted with the employer's resolution. The resolution will not be accepted until the plan is submitted.

d) After an employer has submitted a resolution to ERS, and a plan, if applicable, the ERS staff shall review the resolutions for historical compliance with ERS requirements and the financial stability of the employer and, if applicable, the plan for conformance with this policy. The ERS staff may request additional information from the employer in order to conduct this review. The ERS staff shall bring recommendations for denials of elections at the next Board of Control meeting that occurs at least thirty days after receipt of the resolution.

e) The Board of Control may deny an election if:

   1) The employer has failed to timely make the required contributions;

   2) The employer is in default pursuant to *Ala. Code* § 36-27-6(h) or withdrawn pursuant to *Ala. Code* § 36-27-6(j);

3) The employer has not increased its Tier I member contribution rates as provided in Act 2011-676 and has not submitted a plan to do so as set forth in this policy; and/or

4) The employer is otherwise shown to be financially unstable; and/or

5) The employer failed to provide information as requested by the ERS staff.

f) If the Board of Control denies an employer's election, the employer may petition the Board of Control for reconsideration of its denial. The employer must file a written request with ERS for reconsideration. Such request must be received by ERS within 30 days of the denial.

g) An election by an employer under *Ala. Code* § 36-27-6.5 does not convert that employer's Tier II members to Tier I. Instead, the Tier II members will receive Tier I benefits for their service with the employer. If a Tier II member is subsequently employed by an employer that did not make an election under *Ala. Code* § 36-27-6.5, the Tier II member will receive Tier II benefits for his or her service with that employer.