

HB308 INTRODUCED



1 5VHBM6-1
2 By Representatives Sells, Baker, Pettus
3 RFD: Ways and Means Education
4 First Read: 13-Apr-23
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SYNOPSIS:

Under existing law, a retired public employee is permitted to return to certain limited compensated service with any employer participating in the Teachers' Retirement System, Employees' Retirement System, or Judicial Retirement Fund without suspension of his or her retirement allowance.

This bill would lift these restrictions for retirees who have drawn retirement benefits for 12 consecutive months without performing services for compensation with participating employers and would limit the person's compensation from the employer to 75 percent of the person's annual retirement benefit for each calendar year.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Retirement Systems of Alabama; to amend Section 16-25-14, as last amended by Act 2022-184 and Act 2022-222 of the 2022 Regular Session, and Section 36-27-16, as last amended by Act 2022-184 and Act 2022-351 of the 2022 Regular Session, Code of Alabama 1975, to require an



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29 individual retired under the Teachers' Retirement System,
30 Employees' Retirement System, or Judicial Retirement Fund to
31 draw his or her retirement benefits for 12 consecutive months
32 before returning to compensated work for a participating
33 employer; to limit the person's compensation from the employer
34 to 75 percent of the person's annual retirement benefit for
35 each calendar year; and to repeal Sections 16-25-26, 29-4-6,
36 and 36-27-8.2, Code of Alabama 1975, authorizing certain
37 retired public employees to return to work for participating
38 employers.

39 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

40 Section 1. Sections 16-25-14, as last amended by Act
41 2022-184 and Act 2022-222 of the 2022 Regular Session, and
42 Section 36-27-16, as last amended by Act 2022-184 and Act
43 2022-351 of the 2022 Regular Session, Code of Alabama 1975,
44 are amended to read as follows:

45 "§16-25-14

46 (a) (1) Any Tier I plan member who withdraws from
47 service upon or after attainment of age 60 and any Tier II
48 plan member who withdraws from service upon or after
49 attainment of age 62, or in the case of a Tier II plan member
50 who is a correctional officer, firefighter, or law enforcement
51 officer as defined in Section 36-27-59, who withdraws from
52 service upon or after attainment of age 56 with at least 10
53 years of creditable service as a correctional officer,
54 firefighter, or law enforcement officer may retire upon
55 written application to the Board of Control setting forth at
56 what time, not less than 30 days nor more than 90 days



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57 subsequent to the execution and filing thereof, he or she
58 desires to be retired; provided, that any such member who
59 became a member on or after October 1, 1963, shall have
60 completed 10 or more years of creditable service.

61 (2) Any Tier I plan member who has attained age 60 and
62 any Tier II plan member who has attained age 62, or in the
63 case of a Tier II plan member who is a correctional officer,
64 firefighter, or law enforcement officer as defined in Section
65 36-27-59, who has attained age 56 with at least 10 years of
66 creditable service as a correctional officer, firefighter, or
67 law enforcement officer and has previously withdrawn from
68 service may retire upon written application to the Board of
69 Control setting forth at what time, not less than 30 days nor
70 more than 90 days subsequent to the execution and filing
71 thereof, he or she desires to be retired; provided, that the
72 member shall have completed at the time for his or her
73 withdrawal from service the requirements established by the
74 Board of Control for eligibility for deferred benefits
75 pursuant to Section 16-25-3.

76 (3) Any person who is presently covered or is eligible
77 to be covered under the Employees' Retirement System of
78 Alabama or the Teachers' Retirement System of Alabama and who,
79 prior to the coverage or eligibility for coverage, served as
80 head of any Alabama county's public library service department
81 shall have credited to him or her one year of creditable
82 service for each year served as such head, not to exceed 12
83 years; provided, that the person shall pay into the retirement
84 system the employee's part of the cost or contribution based



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85 on the salary paid to the person during the time of his or her
86 service in the above capacity, with the cost or contribution
87 to be calculated at the percent or rate in effect on October
88 1, 1973.

89 (4) Any Tier I plan member of the Teachers' Retirement
90 System of Alabama who withdraws from service after the
91 completion of at least 25 years of creditable service, or any
92 Tier II plan member who withdraws from service after the
93 completion of at least 30 years of creditable service, may
94 retire upon written application to the Board of Control of the
95 Teachers' Retirement System setting forth at what time, not
96 less than 30 days nor more than 90 days subsequent to the
97 execution and filing thereof, he or she desires to be retired;
98 provided, that any such member who became a Tier I or Tier II
99 plan member on or after October 1, 1963, shall have completed
100 10 or more years of creditable service.

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

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

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

111 (3) If he or she has a prior service certificate in
112 full force and effect, an additional pension which shall be



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113 equal to the annuity which would have been provided at age of
114 retirement, but not to exceed an annuity allowable at age 65
115 by twice the contributions which he or she would have made
116 during the period of prior service with which he or she is
117 credited had the system been in operation and had he or she
118 contributed thereunder. In lieu of a determination of the
119 actual compensation of the members that was received during
120 that prior service, the Board of Control may use for the
121 purposes of this chapter the compensation rates which, if they
122 had progressed with the rates of salary increase shown in the
123 tables as prescribed in subsection (o) of Section 16-25-19,
124 would have resulted in the same average salary of the member
125 for the five years immediately preceding the date of
126 establishment as the records show the member actually
127 received.

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

132 (1) Two and one-eightieth percent of the member's
133 average final compensation multiplied by the number of years
134 of his or her creditable service; or

135 (2) If he or she became a member before October 1,
136 1971, seventy-two dollars (\$72) multiplied by the number of
137 years of his or her creditable service not in excess of 25
138 years.

139 Notwithstanding, a member who retired prior to October
140 1, 1971, under service retirement shall receive one hundred



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141 twenty dollars (\$120) multiplied by the number of years of his
142 or her creditable service not in excess of 25 years.

143 (d) Upon retirement from service, a Tier II plan member
144 shall receive a service retirement allowance which shall
145 consist of an annuity which shall be the actuarial equivalent
146 of the member's accumulated contributions at the time of
147 retirement and a pension which, when added to the member's
148 annuity, shall be equal to one and sixty-five hundredths
149 percent (1.65%) of the member's average final compensation
150 multiplied by the number of years of creditable service. The
151 service retirement allowance for a member who retires with 30
152 years of creditable service before reaching the age of 62
153 shall be reduced by two percent (2%) for each year of the
154 difference between age 62 and the age at retirement of the
155 member. Notwithstanding the foregoing, the service retirement
156 allowance shall not exceed eighty percent (80%) of the
157 member's average final compensation.

158 (e) Upon the application of a Tier I plan member in
159 service or of his or her employer, any member who has had 10
160 or more years of creditable service may be retired by the
161 Board of Control on a disability retirement allowance not less
162 than 30 nor more than 90 days next following the date of
163 filing the application; provided, that the medical board,
164 after a medical examination of the member, shall certify that
165 the member is mentally or physically incapacitated for further
166 performance of duty, that the incapacity is likely to be
167 permanent, and that the member should be retired. Upon the
168 application of a Tier II plan member in service or of his or



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169 her employer, any member who has had 10 or more years of
170 creditable service may be retired by the Board of Control on a
171 disability retirement allowance not less than 30 nor more than
172 90 days next following the date of filing the application;
173 provided, that the medical board, after a medical examination
174 of the member, shall certify that the member is totally and
175 permanently mentally or physically incapacitated from regular
176 and substantial gainful employment, and that the member should
177 be retired.

178 (f) Upon retirement for disability, a Tier I plan
179 member shall receive a service retirement allowance if he or
180 she has attained age 60 or if any law or part of any law
181 pertaining to retirement under the Teachers' Retirement System
182 of Alabama provides for service retirement after the
183 completion of 25 years of creditable service and the member
184 has completed 25 years of creditable service; otherwise, he or
185 she shall receive a disability retirement allowance which
186 shall consist of:

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

190 (2) A pension which shall be equal to the pension that
191 would have been payable under subdivisions (2) and (3) of
192 subsection (b) of this section upon service retirement at age
193 60 had the member continued in service to that age without
194 change in compensation.

195 The annual disability retirement pension shall not be
196 less than an amount which when added to his or her annuity is



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197 equal to the greater of the following amounts:

198 a. Two and one-eightieth percent of the member's
199 average final compensation multiplied by the number of years
200 of creditable service.

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

204 Notwithstanding, a member who retired prior to October
205 1, 1971, for disability shall receive ninety dollars (\$90)
206 multiplied by the number of years of his or her creditable
207 service not in excess of 25 years.

208 (g) Upon retirement for disability, a Tier II plan
209 member shall receive a service retirement allowance if the
210 member has attained age 62, or in the case of a Tier II plan
211 member who is a correctional officer, firefighter, or law
212 enforcement officer as defined in Section 36-27-59, if the
213 member has attained age 56 with at least 10 years of
214 creditable service as a correctional officer, firefighter, or
215 law enforcement officer or if the member has completed 30
216 years of creditable service, otherwise, the member shall
217 receive a disability retirement allowance which shall be equal
218 to one and sixty-five hundredths percent (1.65%) of the
219 member's average final compensation multiplied by the number
220 of years of creditable service.

221 (h) (1) Once each year during the first five years
222 following the retirement of a member on a disability
223 retirement allowance and once in every three-year period
224 thereafter, the Board of Control may and upon his or her



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225 application shall require any disability beneficiary who has
226 not yet attained age 60 for a Tier I plan member or age 62 for
227 a Tier II plan member to undergo a medical examination, the
228 examination to be made at the place of residence of the
229 beneficiary or other place mutually agreed upon by a physician
230 of or designated by the medical board. Should any disability
231 beneficiary who has not yet attained age 60 for a Tier I plan
232 member or age 62 for a Tier II plan member refuse to submit to
233 the medical examination, his or her pension may be
234 discontinued until his or her withdrawal of the refusal, and
235 should his or her refusal continue for one year, all his or
236 her rights in and to his or her pension may be revoked by the
237 Board of Control; provided, that these requirements relative
238 to the medical examination shall not apply in the case of a
239 Tier II plan member who is a correctional officer,
240 firefighter, or law enforcement officer as defined in Section
241 36-27-59 retired for disability and who has attained age 56
242 with at least 10 years of creditable service as a correctional
243 officer, firefighter, or law enforcement officer.

244 (2) Should the medical board report and certify to the
245 Board of Control that a disability beneficiary who is a Tier I
246 plan member is engaged in or is able to engage in a gainful
247 occupation paying more than the difference between his or her
248 retirement allowance and his average final compensation and
249 should the Board of Control concur in the report, then the
250 amount of his or her pension shall be reduced to an amount
251 which, together with his or her annuity and the amount
252 earnable by him or her, shall equal the amount of his or her



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253 average final compensation. Should his or her earning capacity
254 be later changed, the amount of his or her pension may be
255 further modified; provided, that the new pension shall not
256 exceed the amount of the pension originally granted nor an
257 amount which, when added to the amount earnable by the
258 beneficiary together with his or her annuity, equals the
259 amount of his or her average final compensation.

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

266 (i) (1) Should a member cease to be a teacher, except by
267 death or by retirement under the provisions of this chapter,
268 the contributions standing to the credit of his or her
269 individual account in the Annuity Savings Fund shall be paid
270 to him or her upon demand, and in addition to the payment
271 there shall be paid five-tenths of the interest accumulations
272 standing to the credit of his or her individual account if he
273 or she shall have not less than three but less than 16 years
274 of membership service, six-tenths of the interest
275 accumulations if he or she shall have not less than 16 but
276 less than 21 years of membership service, seven-tenths of the
277 interest accumulations if he or she shall have not less than
278 21 but less than 26 years of membership service, and
279 eight-tenths of the interest accumulations if he or she shall
280 have not less than 26 years of membership service.



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281 (2) In case of the death of a member eligible for
282 service retirement pursuant to subsection (a) of this section,
283 an allowance shall be paid to the surviving spouse, if
284 designated as the sole beneficiary, in an amount that would
285 have been payable if the member had retired immediately prior
286 to his or her death and had elected Option 2, as set forth in
287 subsection (j), or to such other person who the member shall
288 have designated, in an amount that would have been payable if
289 the member had retired immediately prior to his or her death
290 and had elected Option 3, as set forth in subsection (j).
291 Alternatively, if the surviving spouse or other designee
292 desires, he or she may choose to receive, in lieu of the
293 allowance provided under Option 2 or Option 3, the accumulated
294 contributions of the member plus an amount equal to the
295 accumulated contributions of the member not to exceed five
296 thousand dollars (\$5,000) or the accumulated contributions of
297 the member plus the benefit provided by Section 36-27B-3 if a
298 benefit is payable under that section. For purposes of this
299 subsection only, hazardous duty time, as set forth in
300 subdivision (b)(1) of Section 36-27-59, may be used in
301 calculating the requisite years of service for firefighters,
302 law enforcement officers, and correctional officers even if
303 the member has not otherwise attained 25 years of creditable
304 service.

305 (3) Upon the death of a member on account of whom no
306 survivor allowance is payable under subdivision (2) of this
307 subsection, the accumulated contributions of the member plus
308 an amount equal to the accumulated contributions not to exceed



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309 five thousand dollars (\$5,000) or the accumulated
310 contributions of the member plus the benefit provided by
311 Section 36-27B-3 if a benefit is payable under that section
312 shall be paid to his or her estate or to such person as he or
313 she shall have nominated by written designation duly executed
314 and filed with the Board of Control.

315 (j) With the provision the election of an option shall
316 be effective on the effective date of retirement, any member
317 may elect prior to retirement to receive, in lieu of his or
318 her retirement allowance payable throughout life, the
319 actuarial equivalent at that time of his or her retirement
320 allowance in a reduced retirement allowance payable throughout
321 life with the provision that:

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

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

334 (3) OPTION 3. Upon his or her death, one half of his or
335 her reduced retirement allowance shall be continued throughout
336 the life of and paid to the person as he or she shall nominate



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337 by written designation duly acknowledged and filed with the
338 Board of Control at the time of his or her retirement; or

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

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

355 ~~(k) Should any beneficiary be restored to active~~
356 ~~service, his or her retirement allowance shall be suspended~~
357 ~~until he or she again withdraws from service and, he or she~~
358 ~~shall not again become a member, nor shall he or she make~~
359 ~~contributions; except, that should the beneficiary who has~~
360 ~~been restored to active service continue in service for a~~
361 ~~period of two or more years from the date of his or her~~
362 ~~reentry into active service, he or she may request the Board~~
363 ~~of Control to allow him or her to again become a member of the~~
364 ~~retirement system. The Board of Control may grant the request~~



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365 ~~for restoration to membership; provided, that the beneficiary~~
366 ~~whose retirement allowance has been suspended shall repay to~~
367 ~~the system all monies received by him or her as benefits~~
368 ~~during any period subsequent to the date of his or her reentry~~
369 ~~into active service; provided further, that he or she shall~~
370 ~~make a contribution equal to the amount he or she would have~~
371 ~~contributed had he or she been a member during the period of~~
372 ~~his or her restoration to active service on a suspended~~
373 ~~allowance basis, together with the interest which would have~~
374 ~~been credited to the contributions on account of the period of~~
375 ~~restoration up to the date the contribution is made.~~

376 ~~(l)~~ (k) (1) All retirement allowance payments due on or
377 after October 1, 1975, to members who retired prior to October
378 1, 1975, shall be redetermined as if the provisions of
379 subsections (b) and (e) of this section which became effective
380 on said date were in effect at the time the member retired;
381 provided, that the annual retirement allowance of any member
382 who retired on or before January 1, 1956, shall be not less
383 than one hundred thirty-two dollars (\$132) multiplied by the
384 number of years of his or her creditable service not in excess
385 of 30 years in the case of service retirement or ninety-nine
386 dollars (\$99) multiplied by the number of years of creditable
387 service not in excess of 30 years in the case of disability
388 retirements. Any increase provided in the retirement allowance
389 payment under this subsection for a member who retired under
390 the provisions of any optional benefit elected pursuant to
391 subsection (j) of this section shall accrue only to the
392 retired member, and no person designated to receive any



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393 payments after the death of a retired member under the
394 provisions of any optional benefit shall receive any increase
395 in payments under this subsection.

396 (2) Any person who served at least 30 years as a
397 teacher in the public schools of Alabama and was never a
398 member of the system and who, prior to October 1, 1963, was in
399 receipt of a benefit for old age assistance pursuant to
400 subsections (1) and (2) of Section 1 of Act 116, approved
401 August 24, 1959, shall be entitled to receive an annual
402 retirement allowance of three thousand nine hundred sixty
403 dollars (\$3,960) from the system, effective as of October 1,
404 1973.

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

419 ~~(m)~~ (l) Notwithstanding any other provisions of this
420 section to the contrary, when a designated beneficiary for a



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421 member predeceases the member who is receiving a monthly
422 benefit allowance provided under Option 2, 3, or 4, the member
423 may designate a replacement beneficiary for the deceased
424 beneficiary to become effective two years after the date of
425 designation of the replacement beneficiary and an actuarial
426 adjustment in the monthly benefit allowance of the member to
427 cover any cost associated with designating a replacement
428 beneficiary shall be reflected thereafter in the monthly
429 benefit allowance received by the member, commencing with the
430 first benefit allowance check received by the member following
431 the date of designation of the replacement beneficiary.

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

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



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449 "§36-27-16

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

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

470 b. Any Tier I plan member who has attained age 60, or
471 age 52 in the case of a state policeman and any Tier II plan
472 member who has attained age 62, or age 56 in the case of a
473 state policeman or in the case of a correctional officer,
474 firefighter, or law enforcement officer as defined in Section
475 36-27-59 who has at least 10 years of creditable service as a
476 correctional officer, firefighter, or law enforcement officer,



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477 and has previously withdrawn from service may retire upon
478 written application to the Board of Control setting forth at
479 what time, not less than 30 days nor more than 90 days
480 subsequent to the execution and filing thereof, he or she
481 desires to be retired; provided, the member shall have at the
482 time of his or her withdrawal from service completed the age
483 and service requirements established by the Board of Control
484 for eligibility for deferred benefits; provided, that the
485 minimum number of years of creditable service shall not be
486 less than 10 years nor more than 25 years.

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



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505 (2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

506 a. Upon retirement from service, a Tier I plan member
507 shall receive a service retirement allowance which shall
508 consist of:

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

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

526 3. An additional pension, if he or she has a prior
527 service certificate in full force and effect, which shall be
528 equal to the annuity which would have been provided at the age
529 of retirement, but which shall not exceed an annuity allowable
530 at age 65 by twice the contributions which he or she would
531 have made during the period of prior service with which he or
532 she is credited had the system been in operation and had he or



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533 she contributed thereunder; except, that in case of a state
534 policeman who has completed 20 years of creditable service as
535 a state policeman who retired after age 56 but prior to age
536 60, an additional pension, if he or she has a prior service
537 certificate in full force and effect, which shall be equal to
538 the annuity which would have been provided at age 60, but
539 which shall not exceed an annuity allowable at age 60 by twice
540 the contributions which he or she would have made during the
541 period of prior service with which he or she is credited had
542 the system been in operation and had he or she contributed
543 thereunder.

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

549 1. An annuity which shall be equal to the annuity that
550 would have been payable had the member continued in service
551 for four years without change in compensation;

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

555 3. An additional pension, if he or she has a prior
556 service certificate in full force and effect, which shall be
557 equal to the annuity which would have been provided at the age
558 of retirement, but which shall not exceed an annuity allowable
559 at the age of retirement plus four years by twice the
560 contributions which he or she would have made during the



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561 period of prior service with which he or she is credited had
562 the system been in operation and had he or she contributed
563 thereunder. In lieu of a determination of the actual
564 compensation of a member that was received during that prior
565 service, the Board of Control may use for the purpose of this
566 article the compensation rate which, if it had progressed with
567 the rates of salary increase shown in the tables as prescribed
568 in subsection (n) of Section 36-27-23, would have resulted in
569 the same average salary of the member for the five years
570 immediately preceding the date of establishment as the records
571 show the member actually received.

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

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

580 2. If he or she became a member before October 1, 1965,
581 seventy-two dollars (\$72) multiplied by the number of years of
582 his or her creditable service not in excess of 25 years.

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

588 1. Two and seven-eighths percent of the member's



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589 average final compensation multiplied by the number of years
590 of his or her creditable service. Creditable service for any
591 state policeman under the age of 56 years who has completed 20
592 years of creditable service as a state policeman shall include
593 a bonus equal to four additional years. Creditable service for
594 a state policeman 56 years or older shall include a bonus
595 equal to the years or portion thereof remaining until the
596 member reaches age 60; or

597 2. If he or she became a member before October 1, 1965,
598 eighty-six dollars forty cents (\$86.40) multiplied by the
599 number of years of his or her creditable service not in excess
600 of 25 years; provided, however, that if the member has
601 completed 20 years of creditable service as a state policeman
602 and has not attained age 60 at the time of retirement, the
603 pension shall be determined as provided in this subparagraph
604 on the basis of the number of years of creditable service
605 which he or she would have had if he or she had remained in
606 service for four years, except that, in the case of those
607 state policemen retiring at age 56 or after, the number of
608 years in determining the pension shall not exceed the number
609 of years of creditable service which he or she would have had
610 if he or she had remained in service to age 60.

611 e. Upon retirement from service, a Tier II plan member
612 who is not employed as a state policeman shall receive a
613 service retirement allowance which shall consist of an annuity
614 which shall be the actuarial equivalent of the member's
615 accumulated contributions at the time of retirement and a
616 pension which, when added to the member's annuity, shall be



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617 equal to one and sixty-five hundredths percent (1.65%) of the
618 member's average final compensation multiplied by the number
619 of years of creditable service. The service retirement
620 allowance for a member who retires with 30 years of creditable
621 service before reaching the age of 62 shall be reduced by two
622 percent (2%) for each year of the difference between age 62
623 and the age at retirement of the member. Notwithstanding the
624 foregoing, the service retirement allowance shall not exceed
625 eighty percent (80%) of the member's average final
626 compensation.

627 f. Upon retirement from service, a Tier II plan member
628 who is employed as a state policeman shall receive a service
629 retirement allowance which shall consist of an annuity which
630 shall be the actuarial equivalent of the member's accumulated
631 contributions at the time of retirement and a pension which,
632 when added to the member's annuity, shall be equal to two and
633 three-eighths percent (2.375%) of the member's average final
634 compensation multiplied by the member's number of years of
635 creditable service. The service retirement allowance for a
636 member who retires with 30 years of creditable service before
637 reaching the age of 62 shall be reduced by two percent (2%)
638 for each year of the difference between age 62 and the age at
639 retirement of the member. Notwithstanding the foregoing, the
640 service retirement allowance shall not exceed eighty percent
641 (80%) of the member's average final compensation.

642 g. Anything in this article to the contrary
643 notwithstanding, in the application of the foregoing
644 provisions of this subdivision to a member whose creditable



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645 service includes a period of service as a state policeman and
646 a period of service in another employment classification, the
647 benefit rates applicable to a member employed as a state
648 policeman shall apply to all creditable service as a state
649 policeman, and the benefit rates applicable to a member not
650 employed as a state policeman shall apply to all creditable
651 service, but in all other respects the pension under this
652 subdivision shall be determined on the basis of the member's
653 employment classification at the time of his or her withdrawal
654 from service.

655 h. The annual service retirement pension payable to any
656 state employee who had attained age 60 on or before October 1,
657 1945, who declined membership in the Employees' Retirement
658 System of Alabama in the manner prescribed in Section 36-27-4
659 and who retires as a state employee after completing a minimum
660 of 15 years' service shall be seventy-two dollars (\$72)
661 multiplied by the number of years of his or her service not in
662 excess of 25 years.

663 (b) (1) RETIREMENT OF DISABLED EMPLOYEES; ELIGIBILITY
664 FOR DISABILITY RETIREMENT BENEFITS.

665 a. Upon application of a Tier I plan member in service
666 or of his or her employer, any member who has had 10 or more
667 years of creditable service who becomes disabled may be
668 retired on a disability retirement allowance by the Board of
669 Control not less than 30 nor more than 90 days next following
670 the date of filing of the application; provided, that the
671 medical board, after a medical examination of the member,
672 shall certify that the member is mentally or physically



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

685 b. Without regard to the number of years of creditable
686 service, a member employed as a state policeman, a municipal
687 police officer or a deputy sheriff, or a member employed as a
688 state, municipal, or county firefighter who is not covered
689 through his or her current employer under the United States
690 Social Security Act, who as a result of his or her employment,
691 in the line of duty and not as a result of his or her own
692 misconduct, shall become permanently and totally disabled to
693 the extent that he or she cannot perform his or her duties or
694 duties of a less strenuous nature, as an employee of the State
695 of Alabama or as an employee of an employer participating
696 under the provisions of Section 36-27-6, shall be retired on a
697 disability retirement allowance, not less than 30 nor more
698 than 90 days next following the date of filing of the
699 application, provided that the medical board, after a medical
700 examination of the member shall certify that the member is



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701 mentally or physically incapacitated for the further
702 performance of duty, that the incapacity is likely to be
703 permanent, and that the member should be retired.

704 (2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

705 a. Upon retirement for disability a member shall
706 receive a service retirement allowance if he or she is a Tier
707 I plan member and he or she has attained age 60 or if he or
708 she is a Tier II plan member and he or she has attained age
709 62, or if any law or part of any law pertaining to retirement
710 under the Employees' Retirement System of Alabama provides for
711 service retirement after the completion of 25 years of
712 creditable service or 30 years of creditable service without a
713 reduction in the retirement allowance and the member has
714 completed 25 years of creditable service or 30 years of
715 creditable service, whichever is applicable, or, in the case
716 of a state policeman, if he or she is a Tier I plan member and
717 he or she has attained age 52 or, in the case of a state
718 policeman or a correctional officer, firefighter, or law
719 enforcement officer as defined in Section 36-27-59 with at
720 least 10 years of creditable service as a correctional
721 officer, firefighter, or law enforcement officer, if he or she
722 is a Tier II plan member and he or she has attained age 56;
723 otherwise, he or she shall receive a disability retirement
724 allowance which shall consist of:

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

728 2. A pension which shall be equal to the pension that



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729 would have been payable under subparagraphs (a)(2)a.2. and
730 (a)(2)a.3. of this section upon service retirement at age 65
731 had the member continued in service to that age without change
732 in compensation.

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

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

741 2. If he or she became a member before October 1, 1965,
742 fifty-four dollars (\$54) multiplied by the number of years of
743 his or her creditable service not in excess of 25 years.

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

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



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757 member reaches age 60; or

758 2. If he or she became a member before October 1, 1965,
759 sixty-four dollars eighty cents (\$64.80) multiplied by the
760 number of years of his or her creditable service not in excess
761 of 25 years.

762 d. The annual disability retirement allowance payable
763 to a Tier II plan member not employed as a state policeman
764 shall be equal to one and sixty-five hundredths percent
765 (1.65%) of the member's average final compensation multiplied
766 by the number of years of creditable service.

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

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



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785 (3) REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT
786 OF DISABILITY. Once each year during the first five years
787 following the retirement of a member on a disability
788 retirement allowance and once every three-year period
789 thereafter, the Board of Control may, and upon his or her
790 application shall, require any disability beneficiary who has
791 not yet attained age 60 if the beneficiary is a Tier I plan
792 member or age 62 if the beneficiary is a Tier II plan member
793 to undergo a medical examination, the examination to be made
794 at the place of residence of the beneficiary or other place
795 mutually agreed upon by a physician or physicians of or
796 designated by the medical board. Should any disability
797 beneficiary who has not yet attained age 60 if the beneficiary
798 is a Tier I plan member or age 62 if the beneficiary is a Tier
799 II plan member refuse to submit to the medical examination,
800 his or her allowance may be discontinued until his or her
801 withdrawal of the refusal, and, should his or her refusal
802 continue for one year, all his or her rights in and to his or
803 her pension may be revoked by the Board of Control; provided,
804 that these requirements relative to the medical examination
805 shall not apply in the case of a state policeman retired for
806 disability and who has attained age 52 if he or she is a Tier
807 I plan member or in the case of a state policeman or a
808 correctional officer, firefighter, or law enforcement officer
809 as defined in Section 36-27-59 with at least 10 years of
810 creditable service as a correctional officer, firefighter, or
811 law enforcement officer retired for disability who has
812 attained age 56 if he or she is a Tier II plan member. Should



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813 the medical board report and certify to the Board of Control
814 that a disability beneficiary who is a Tier I plan member is
815 engaged in or is able to engage in a gainful occupation paying
816 more than the difference between his or her retirement
817 allowance and his or her average final compensation and should
818 the Board of Control concur in the report, then the amount of
819 his or her pension shall be reduced to an amount which,
820 together with his or her annuity and the amount earnable by
821 him or her, shall equal the amount of his or her average final
822 compensation. Should his or her earning capacity be later
823 changed, the amount of his or her pension may be further
824 modified; provided, that the new pension shall not exceed the
825 amount of the pension originally granted nor an amount which,
826 when added to the amount earnable by the beneficiary, together
827 with this annuity exceeds the amount of his or her average
828 final compensation.

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

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

837 (1) Should a member cease to be an employee except by
838 death or by retirement under the provisions of this article,
839 the contributions standing to the credit of his or her
840 individual account in the Annuity Savings Fund shall be paid



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841 to him or her upon demand and, in addition to the payment,
842 there shall be paid five-tenths of the interest accumulations
843 standing to the credit of his or her individual account if he
844 or she shall have not less than three but less than 16 years
845 of membership service, six-tenths of the interest
846 accumulations if he or she shall have not less than 16 but
847 less than 21 years of membership service, seven-tenths of the
848 interest accumulations if he or she shall have not less than
849 21 but less than 26 years of membership service and
850 eight-tenths of the interest accumulations if he or she shall
851 have not less than 26 years of membership service.

852 (2) In case of the death of a member eligible for
853 service retirement pursuant to subsection (a), an allowance
854 shall be paid to the surviving spouse, if designated as the
855 sole beneficiary, in an amount that would have been payable if
856 the member had retired immediately prior to his or her death
857 and had elected Option 2, as set forth in subsection (d), or
858 to such other person who the member shall have designated, in
859 an amount that would have been payable if the member had
860 retired immediately prior to his or her death and had elected
861 Option 3, as set forth in subsection (d). Alternatively, if
862 the surviving spouse or other designee desires, he or she may
863 choose to receive, in lieu of the allowance provided under
864 Option 2 or Option 3, the accumulated contributions of the
865 member plus an amount equal to the accumulated contributions
866 of the member not to exceed five thousand dollars (\$5,000) or
867 the accumulated contributions of the member plus the benefit
868 provided by Section 36-27B-3 if a benefit is payable under



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869 that section;

870 (3) In case of the death of a Tier I plan member not
871 eligible for service retirement, after completion of 25 years
872 of creditable service, an allowance shall be paid to the
873 surviving spouse, if designated as the sole beneficiary, in an
874 amount that would have been payable if the member had retired
875 immediately prior to his or her death and had elected Option
876 2, as set forth in subsection (d), or to such other person who
877 the member shall have designated, in an amount that would have
878 been payable if the member had retired for disability
879 immediately prior to his or her death and had elected Option 3
880 as set forth in subsection (d). Alternatively, if the
881 surviving spouse or other designee desires, he or she may
882 choose to receive, in lieu of the allowance provided under
883 Option 2 or Option 3, the accumulated contributions of the
884 member plus an amount equal to the accumulated contributions
885 of the member not to exceed five thousand dollars (\$5,000) or
886 the accumulated contributions of the member plus the benefit
887 provided by Section 36-27B-3 if a benefit is payable under
888 that section. For purposes of this subsection only, hazardous
889 duty time, as set forth in subdivision (b)(1) of Section
890 36-27-59, may be used in calculating the requisite years of
891 service for firefighters, law enforcement officers, and
892 correctional officers even if the member has not otherwise
893 attained 25 years of creditable service;

894 (4) Upon the death of a member on account of whom no
895 survivor allowance is payable under subdivisions (2) or (3) of
896 this subsection, the accumulated contributions of the member



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897 plus an amount equal to the accumulated contributions not to
898 exceed five thousand dollars (\$5,000) or the accumulated
899 contributions of the member plus the benefit provided by
900 Section 36-27B-3 if a benefit is payable under that section
901 shall be paid to his or her estate or to such person as he or
902 she shall have nominated by written designation duly executed
903 and filed with the Board of Control.

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

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

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

923 (3) OPTION 3. Upon his or her death, one half of his or
924 her reduced allowance shall be continued throughout the life



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925 of and paid to the person as he or she shall nominate by
926 written designation duly acknowledged and filed with the Board
927 of Control at the time of his or her retirement; or

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

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

944 ~~(c) Effect of return to active service. Should any~~
945 ~~beneficiary be restored to active service, his or her~~
946 ~~retirement allowance shall be suspended until he or she again~~
947 ~~withdraws from service and he or she shall not again become a~~
948 ~~member of the retirement system nor shall he or she make~~
949 ~~contributions; except, that should the beneficiary who has~~
950 ~~been restored to active service continue in service for a~~
951 ~~period of two or more years from the date of his or her~~
952 ~~reentry into active service, he or she may request the Board~~



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953 ~~of Control to allow him or her to again become a member of the~~
954 ~~retirement system. The Board of Control may grant the request~~
955 ~~for restoration to membership; provided, that the beneficiary~~
956 ~~whose retirement allowance has been suspended shall repay to~~
957 ~~the system all monies received by him or her as benefits~~
958 ~~during any periods subsequent to the date of his or her~~
959 ~~reentry into active service and shall make a contribution~~
960 ~~equal to the amount he or she would have contributed had he or~~
961 ~~she been a member during the period of his or her restoration~~
962 ~~to active service on a suspended allowance basis together with~~
963 ~~the interest that would have been credited to the~~
964 ~~contributions on account of the period of restoration up to~~
965 ~~the date the contribution is made.~~

966 ~~(f)~~ (e) (1) REDETERMINATION, ETC., OF CERTAIN ALLOWANCES.
967 All retirement allowance payments due on or after October 1,
968 1975, to members who retired prior to that date shall be
969 redetermined as if the provisions of this section in effect on
970 October 1, 1975, were in effect at the time the member
971 retired. Anything in this article to the contrary
972 notwithstanding, the annual retirement allowance of any member
973 not employed as a state policeman who retired on or before
974 January 1, 1956, shall not be less than seventy-nine dollars
975 twenty cents (\$79.20) multiplied by the number of years of his
976 or her creditable service not in excess of 30 years in the
977 case of service retirement of fifty-nine dollars forty cents
978 (\$59.40) multiplied by the number of years of his or her
979 creditable service not in excess of 30 years in the case of
980 disability retirement. Any increase provided in the retirement



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981 allowance payment under this subdivision for a member who
982 retired under the provisions of any optional benefit elected
983 pursuant to subsection (d) shall accrue only to the retired
984 member, and no person designated to receive any payments after
985 the death of a retired member under the provisions of any
986 optional benefit shall receive any increase in payments under
987 this subdivision. Notwithstanding, any member who retired
988 prior to October 1, 1975, and who chose either Option 2 or
989 Option 3 may elect to receive a reduced allowance and to
990 stipulate that the actuarial equivalent of the increase in his
991 or her retirement allowance, which became effective on that
992 date, be ascribed to his or her designated beneficiary;
993 provided, that the member shall clearly express this intention
994 by filing a written application to the effect with the
995 Secretary-Treasurer of the Employees' Retirement System of
996 Alabama prior to October 1, 1976.

997 (2) Any person who, prior to October 1, 1963, was in
998 receipt of a benefit pursuant to Act No. 376, approved
999 November 6, 1959, but was not a member of the system at the
1000 time of retirement shall not be entitled to receive an annual
1001 retirement allowance from the system, effective October 1,
1002 1971, as follows:

1003 a. If the person was retired on or before January 1,
1004 1956, an amount equal to seventy-nine dollars twenty cents
1005 (\$79.20) multiplied by the number of years of his or her
1006 creditable service not in excess of 30 years.

1007 b. If the person was retired after January 1, 1956, an
1008 amount equal to seventy-two dollars (\$72) multiplied by the



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1009 number of years of his or her creditable service not in excess
1010 of 25 years.

1011 (3) Prior to October 31, 1975, any beneficiary may
1012 elect to leave on deposit with the system all or a specified
1013 part of any increase in his or her monthly retirement
1014 allowance payments arising in accordance with subdivisions (1)
1015 or (2) of this subsection over the monthly allowance which he
1016 or she was receiving prior to October 1, 1975. The portion of
1017 each monthly payment left in the system in accordance with the
1018 election shall be credited, together with regular interest
1019 thereon, to the individual account of the beneficiary. Upon
1020 the death of the beneficiary the total amount standing to his
1021 or her credit, including regular interest to the date of
1022 death, shall be paid in a lump sum to his or her legal
1023 representatives or to such person as he or she shall have
1024 nominated by written designation duly acknowledged and filed
1025 with the Board of Control.

1026 ~~(g)~~ (f) Notwithstanding any other provisions of this
1027 section to the contrary, when a designated beneficiary for a
1028 member predeceases the member who is receiving a monthly
1029 benefit allowance provided under Option 2, 3, or 4, the member
1030 may designate a replacement beneficiary for the deceased
1031 beneficiary to become effective two years after the date of
1032 designation of the replacement beneficiary and an actuarial
1033 adjustment in the monthly benefit allowance of the member to
1034 cover any cost associated with designating a replacement
1035 beneficiary shall be reflected thereafter in the monthly
1036 benefit allowance received by the member, commencing with the



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1037 first benefit allowance check received by the member following
1038 the date of designation of the replacement beneficiary.

1039 ~~(h)~~ (g) Notwithstanding any provision of this section to
1040 the contrary, if a retired member who is receiving a monthly
1041 benefit allowance provided under Option 2, 3, or 4 divorces
1042 his or her designated beneficiary, the member may designate a
1043 replacement beneficiary for the beneficiary to become
1044 effective two years after the date of designation of the
1045 replacement beneficiary and an actuarial adjustment in the
1046 monthly benefit allowance of the member to cover any cost
1047 associated with designating a replacement beneficiary shall be
1048 reflected thereafter in the monthly benefit allowance received
1049 by the member, commencing with the first benefit allowance
1050 check received by the member following the date of designation
1051 of the replacement beneficiary.

1052 ~~(i)~~ (h) Any future act to increase the retirement age
1053 for Tier II plan members above the age of 62 shall require a
1054 two-thirds vote of the elected membership of each house of the
1055 Legislature."

1056 Section 2. (a) If any person retired under the
1057 Teachers' Retirement System performs duties in any capacity
1058 for compensation for an employer participating in the
1059 Teachers' Retirement System, Employees' Retirement System, or
1060 Judicial Retirement Fund, his or her retirement allowance
1061 shall be suspended until termination of employment or
1062 contract, unless he or she has drawn his or her retirement
1063 benefit for 12 consecutive months, has not performed services
1064 for compensation with any employer participating in the



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1065 Teachers' Retirement System, Employees' Retirement System, or
1066 Judicial Retirement Fund during that period, and the person's
1067 compensation from the employer is limited to 75 percent of the
1068 person's annual retirement benefit for each calendar year. The
1069 person may not contribute to the retirement system and may not
1070 earn any additional service credit during the period of
1071 employment or contract.

1072 (b) Any person retired under the Teachers' Retirement
1073 System who is serving as an elected official may serve for
1074 compensation without suspension of benefits so long as the
1075 position is otherwise prohibited from participating in the
1076 Teachers' Retirement System, Employees' Retirement System, or
1077 Judicial Retirement Fund.

1078 (c) An employer shall pay employer contributions, as
1079 provided by Section 16-25-21, Code of Alabama 1975, on all
1080 earnable compensation of an employee who is retired under the
1081 Teachers' Retirement System, Employees' Retirement System, or
1082 Judicial Retirement Fund, regardless of membership status.

1083 (d) Any person retired under the Teachers' Retirement
1084 System, Employees' Retirement System, or Judicial Retirement
1085 Fund who is employed with an employer may become a member by
1086 suspending his or her retirement allowance and contributing to
1087 the retirement system as provided by Section 16-25-21, Code of
1088 Alabama 1975.

1089 (e) Any person retired under the Teachers' Retirement
1090 System as of the effective date of this act shall be presumed
1091 to have drawn his or her retirement benefit for 12 consecutive
1092 months without performing services for compensation for any



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1093 employer participating in the Teachers' Retirement System,
1094 Employees' Retirement System, or Judicial Retirement Fund
1095 during that period.

1096 (f) This section shall not apply to any person who
1097 retired under the Teachers' Retirement System before the
1098 effective date of this act and is drawing his or her
1099 retirement benefit and participating in the Judicial
1100 Retirement Fund under Chapter 18, Title 12, Code of Alabama
1101 1975.

1102 Section 3. (a) If any person retired under the
1103 Employees' Retirement System performs duties in any capacity
1104 for compensation for an employer participating in the
1105 Teachers' Retirement System, Employees' Retirement System, or
1106 Judicial Retirement Fund, his or her retirement allowance
1107 shall be suspended until termination of employment or
1108 contract, unless he or she has drawn his or her retirement
1109 benefit for 12 consecutive months, has not performed services
1110 for compensation with any employer participating in the
1111 Teachers' Retirement System, Employees' Retirement System, or
1112 Judicial Retirement Fund during that period, and the person's
1113 compensation from the employer is limited to 75 percent of the
1114 person's annual retirement benefit for each calendar year. The
1115 person may not contribute to the retirement system and may not
1116 earn any additional service credit during the period of
1117 employment or contract.

1118 (b) Any person retired under the Employees' Retirement
1119 System who is serving as an elected official may serve for
1120 compensation without suspension of benefits so long as the



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1121 position is otherwise prohibited from participating in the
1122 Teachers' Retirement System, Employees' Retirement System, or
1123 Judicial Retirement Fund.

1124 (c) An employer shall pay employer contributions, as
1125 provided by Section 36-27-24, Code of Alabama 1975, on all
1126 earnable compensation of an employee who is retired under the
1127 Teachers' Retirement System, Employees' Retirement System, or
1128 Judicial Retirement Fund, regardless of membership status.

1129 (d) Any person retired under the Teachers' Retirement
1130 System, Employees' Retirement System, or Judicial Retirement
1131 Fund who is employed with an employer may become a member by
1132 suspending his or her retirement allowance and contributing to
1133 the retirement system as provided by Section 36-27-24, Code of
1134 Alabama 1975.

1135 (e) Any person retired under the Employees' Retirement
1136 System as of the effective date of this act shall be presumed
1137 to have drawn his or her retirement benefit for 12 consecutive
1138 months without performing services for compensation for any
1139 employer participating in the Teachers' Retirement System,
1140 Employees' Retirement System, or Judicial Retirement Fund
1141 during that period.

1142 (f) This section shall not apply to any person who
1143 retired under the Employees' Retirement System before the
1144 effective date of this act, is drawing his or her retirement
1145 benefit, and is participating in the Judicial Retirement Fund
1146 under Chapter 18, Title 12, Code of Alabama 1975.

1147 Section 4. (a) If any person retired under the Judges'
1148 and Clerks' Plan of the Judicial Retirement Fund performs



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1149 duties in any capacity for compensation for an employer
1150 participating in the Teachers' Retirement System, Employees'
1151 Retirement System, or Judicial Retirement Fund, his or her
1152 retirement allowance shall be suspended until termination of
1153 employment or contract, unless he or she has drawn his or her
1154 retirement benefit for 12 consecutive months, has not
1155 performed services for compensation with any employer
1156 participating in the Teachers' Retirement System, Employees'
1157 Retirement System, or Judicial Retirement Fund during that
1158 period, and the person's compensation from the employer is
1159 limited to 75 percent of the person's annual retirement
1160 benefit for each calendar year. The person may not contribute
1161 to the retirement system and may not earn any additional
1162 service credit during the period of employment or contract.

1163 (b) Any person retired under the Judges' and Clerks'
1164 Plan who is serving as an elected official may serve for
1165 compensation without suspension of benefits so long as the
1166 position is otherwise prohibited from participating in the
1167 Teachers' Retirement System, Employees' Retirement System, or
1168 Judicial Retirement Fund.

1169 (c) An employer shall pay employer contributions, as
1170 provided by Section 12-18-152, Code of Alabama 1975, on all
1171 earnable compensation of an employee who is retired under the
1172 Teachers' Retirement System, Employees' Retirement System, or
1173 Judicial Retirement Fund, regardless of membership status.

1174 (d) Any person retired under the Teachers' Retirement
1175 System, Employees' Retirement System, or Judicial Retirement
1176 Fund who is employed as a judge or clerk with an employer may



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1177 become a member by suspending his or her retirement allowance
1178 and contributing to the retirement system as provided by
1179 Section 12-18-152, Code of Alabama 1975.

1180 (e) Any person retired under the Judges' and Clerks'
1181 Plan as of the effective date of this act shall be presumed to
1182 have drawn his or her retirement benefit for 12 consecutive
1183 months without performing services for compensation for any
1184 employer participating in the Teachers' Retirement System,
1185 Employees' Retirement System, or Judicial Retirement Fund
1186 during that period.

1187 Section 5. (a) If any person retired under the District
1188 Attorneys' Plan of the Judicial Retirement Fund performs
1189 duties in any capacity for compensation for an employer
1190 participating in the Teachers' Retirement System, Employees'
1191 Retirement System, or Judicial Retirement Fund, his or her
1192 retirement allowance shall be suspended until termination of
1193 employment or contract, unless he or she has drawn his or her
1194 retirement benefit for 12 consecutive months, has not
1195 performed services for compensation with any employer
1196 participating in the Teachers' Retirement System, Employees'
1197 Retirement System, or Judicial Retirement Fund during that
1198 period, and the person's compensation from the employer is
1199 limited to 75 percent of the person's annual retirement
1200 benefit for each calendar year. The person may not contribute
1201 to the retirement system and may not earn any additional
1202 service credit during the period of employment or contract.

1203 (b) Any person retired under the District Attorneys'
1204 Plan who is serving as an elected official may serve for



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1205 compensation without suspension of benefits so long as the
1206 position is otherwise prohibited from participating in the
1207 Teachers' Retirement System, Employees' Retirement System, or
1208 Judicial Retirement Fund.

1209 (c) An employer shall pay employer contributions, as
1210 provided by Section 12-17-227.2, Code of Alabama 1975, on all
1211 earnable compensation of an employee who is retired under the
1212 Teachers' Retirement System, Employees' Retirement System, or
1213 Judicial Retirement Fund, regardless of membership status.

1214 (d) Any person retired under the Teachers' Retirement
1215 System, Employees' Retirement System, or Judicial Retirement
1216 Fund who is employed with an employer may become a member by
1217 suspending his or her retirement allowance and contributing to
1218 the retirement system as provided by Section 12-17-227.2, Code
1219 of Alabama 1975.

1220 (e) Any person retired under the District Attorneys'
1221 Plan as of the effective date of this act shall be presumed to
1222 have drawn his or her retirement benefit for 12 consecutive
1223 months without performing services for compensation for any
1224 employer participating in the Teachers' Retirement System,
1225 Employees' Retirement System, or Judicial Retirement Fund
1226 during that period.

1227 Section 6. Sections 16-25-26, 29-4-6, and 36-27-8.2 of
1228 the Code of Alabama 1975, authorizing certain retired state
1229 employees to return to work for the state, are repealed.

1230 Section 7. This act shall become effective on the first
1231 day of the third month following its passage and approval by
1232 the Governor, or its otherwise becoming law.