HB77

197259-1

By Representative Baker

RFD: Ways and Means Education

First Read: 05-MAR-19

PFD: 03/04/2019
SYNOPSIS: Existing law provides for a Tier I and Tier II retirement plan for the Teachers' Retirement System.

This bill would create the Tier III plan and would establish a new defined benefit retirement plan for any public employee who is first hired on or after January 1, 2020, by an employer who participates in the Teachers' Retirement System or for any Tier II plan member who has elected to join the new plan.

A BILL TO BE ENTITLED

AN ACT

To amend Sections 16-25-1, 16-25-11.1, 16-25-14, and 16-25-21, Code of Alabama 1975, relating to retirement benefits for employees who are members of the Teachers' Retirement System; to establish the Tier III plan, a new defined benefit retirement plan for employees who first become
a member of the Teachers' Retirement System on or after October 1, 2020, or any Tier II plan member who has elected to join the new plan.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Tier III Teacher Recruitment and Retention Act.

Section 2. Sections 16-25-1, 16-25-11.1, 16-25-14, and 16-25-21, Code of Alabama 1975, are amended to read as follows:

"§16-25-1.

"For the purposes of this chapter the following terms, unless a different meaning is plainly required by the context, shall have the following respective meanings:

"(1) RETIREMENT SYSTEM. The Teachers' Retirement System of Alabama as defined in Section 16-25-2.

"(2) PUBLIC SCHOOL. Any day school conducted within the state under the authority and supervision of a duly elected or appointed county or city board of education and any educational institution supported by and under the control of the state or any private nondenominational school operated nonprofit for the education of children of school age residing within a district where no public school is available for the children.

"(3) TEACHER. Any teacher, principal, superintendent, supervisor, college professor, administrative officer, or clerk employed in any public school or public college within the state or employed in any private
nondenominational school operated nonprofit for the education of children of school age residing within a district where no public school is available for the children or any similar employee or officer of the Department of Education or of the Alabama Education Association, or any attendance worker 50 percent or more of whose salary is paid from public school funds or any employee receiving a regular stated compensation from the retirement system. In all cases of doubt, the Board of Control shall determine whether any person is a teacher as defined in this chapter.

"(4) SUPPORT PERSONNEL or EMPLOYEE. Any maid, custodian, adult bus driver, lunchroom or cafeteria worker, secretary, clerk, clerical assistant, maintenance worker, or other non-certificated employee who works an average of 20 hours weekly.

"(5) EMPLOYER. The State of Alabama, the county school board, the city school board, the State Board of Education, or any governing body of any private nondenominational school operated nonprofit for education of children of school age residing within a district where no public school is available for the children or any other agency of and within the state by which a teacher is paid.

"(6) MEMBER. Any teacher included in the membership of the system as provided in Section 16-25-3.

"(7) BOARD OF CONTROL. The board provided for in Section 16-25-19 to administer the retirement system.
"(8) MEDICAL BOARD. The board of physicians provided for in Section 16-25-19.

"(9) TRUSTEES. The members of the Board of Control to administer the trust funds.

"(10) SERVICE. Service as a teacher.

"(11) PRIOR SERVICE. Service rendered prior to the date of establishment of the retirement system for which credit is allowable under Section 16-25-11.

"(12) MEMBERSHIP SERVICE. Service as a teacher rendered while a member of the retirement system and on account of which contributions are made.

"(13) CREDITABLE SERVICE. "Prior service" plus "membership service" rendered since last becoming a member.

"(14) BENEFICIARY. Any person in receipt of a pension, an annuity, a retirement allowance, or other benefit as provided by this chapter.

"(15) REGULAR INTEREST. Interest compounded annually at the rate determined by the Board of Control in accordance with subsection (b) of Section 16-25-20.

"(16) ACCUMULATED CONTRIBUTIONS. The sum of all the amounts deducted from the compensation of a member and credited to his or her individual account in the annuity savings fund together with regular interest thereon as provided in Section 16-25-21.

"(17) EARNABLE COMPENSATION. The full rate of the compensation that would be payable to a teacher if he or she worked the full normal working time. In cases where
compensation includes maintenance, the Board of Control shall fix the value of that part of the compensation not paid in money. Earnable compensation shall not exceed the limitations imposed by Section 401(a)(17) of the Internal Revenue Code for public pension funds except that any employee who was a member of the Teachers' Retirement System before the first plan year beginning after December 31, 1995, shall not be subject to the earning limitations set forth in Section 401(a)(17). For Tier I plan members, the term earnable compensation for retirement purposes shall include overtime payments that are made to a member; however, earnable compensation shall not exceed 120 percent of any member's annual base compensation as certified by the employer. For Tier II plan and Tier III plan members, earnable compensation shall include overtime payments that are made to the member but shall not include subsistence payments that are made to the member and shall not exceed one hundred twenty-five percent (125%) of the member's annual base compensation, as certified by the employer.

"(18) AVERAGE FINAL COMPENSATION. For any Tier I Plan member, the average annual compensation of a teacher, with respect to which he or she has made contributions pursuant to paragraph b. of subdivision (1) of Section 16-25-21 during the three years in his or her last 10 years of creditable service for which the average is highest or during his or her entire period of creditable service if less than three years; except, that for any period prior to October 1, 1959, the compensation used in computing the average shall
include compensation in excess of the maximum amount with respect to which members were required to contribute. For any Tier II Plan or Tier III plan member, the average annual compensation of the member, with respect to which he or she has made contributions pursuant to paragraph b. of subdivision (1) of Section 16-25-21 during the five years in his or her last ten years of creditable service for which the average is highest or during his or her entire period of creditable service if less than five years.

"(19) ANNUITY. Payments for life derived from the "accumulated contributions" of a member. All annuities shall be payable in equal monthly installments.

"(20) PENSION. Payments for life derived from money provided by the employer. All pensions shall be payable in equal monthly installments.

"(21) RETIREMENT ALLOWANCE. The sum of the "annuity" and the "pension."

"(22) RETIREMENT. Withdrawal from active service with a retirement allowance or optional benefit in lieu thereof granted under this chapter.

"(23) ANNUITY RESERVE. The present value of all payments to be made on account of any annuity or benefit in lieu of any annuity, computed upon the basis of the mortality tables as shall be adopted by the Board of Control, and regular interest.

"(24) PENSION RESERVE. The present value of all payments to be made on account of any pension or benefit in
lieu of any pension, computed upon the basis of the mortality
tables as shall be adopted by the Board of Control, and
regular interest.

"(25) ACTUARIAL EQUIVALENT. A benefit of equal
value, when computed upon the basis of the mortality tables as
shall be adopted by the Board of Control, and regular
interest.

"(26) NORMAL CONTRIBUTION. The contributions of the
state necessary to provide a pension equal to the annuity
which the member's contribution made prior to age 65 with
interest will provide at age of retirement not to exceed 65.

"(27) TIER I PLAN. The defined benefit pension plan
provided by the Retirement System to Tier I plan members.

"(28) TIER II PLAN. The defined benefit pension plan
provided by the Retirement System to Tier II plan members.

"(29) TIER III PLAN. The defined benefit pension
plan provided by the Retirement System to Tier III plan
members.

"(30) TIER I PLAN MEMBER. Any member of the
Retirement System who had service for which he or she received
credit in the Teachers' Retirement System or in the Employees'
Retirement System prior to January 1, 2013.

"(31) TIER II PLAN MEMBER. Any member of the
Retirement System who first began eligible employment with a
Teachers' Retirement System or an Employees' Retirement System
participating employer on or after January 1, 2013, and who
had no eligible service in the Teachers' Retirement System or
the Employees' Retirement System prior to January 1, 2013, except for those active Tier II Plan members who have elected to become Tier III Plan members.

"(32) TIER III PLAN MEMBER. Any member of the Retirement System who first began eligible employment with a Teachers' Retirement System or an Employees' Retirement System participating employer on or after October 1, 2020, and who had no eligible service in the Teachers' Retirement System or the Employees' Retirement System prior to October 1, 2020, and any active Tier II Plan member who opts to become a Tier III Plan member on or before October 1, 2020, in the manner prescribed by the Board of Control.

"§16-25-11.1.

"(a) Teachers, as defined in subdivision (3) of Section 16-25-1 or subsection (d) of Section 16-25-5, as amended may use their accrued sick leave, up to a maximum number of accrued sick leave days allowed by law, to be included as membership service in determining the total years of creditable service in the Teachers' Retirement System of Alabama; provided, any teacher not authorized by law to receive sick leave may use any accrued sick leave provided by his or her employer, provided, that employer is lawfully empowered to grant such leave, which cannot be without pay; and provided further that the amount of such accrued leave shall not exceed the maximum number of accrued sick leave days allowed by law for a classroom teacher employed by a city or county board of education. Unused sick leave may be converted
to membership service only for the purpose of applying for service retirement. The conversion shall not apply to eligibility for deferred retirement; provided that a person eligible for service retirement, if also eligible for disability retirement, may elect disability retirement and also receive credit for accumulated sick leave pursuant to this section. This section shall not be applicable to any person who is eligible to receive partial payment for accrued sick leave pursuant to Section 36-26-36. This section shall apply to all Tier III plan members.

"(b) The conversion of accrued sick leave into creditable service provided in this section shall not apply to any Tier II plan member.

"§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 or Tier III plan member who withdraws from service upon or after attainment of age 62, or in the case of a Tier II or Tier III 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 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 or Tier III plan member who has attained age 
62, or in the case of a Tier II or Tier III 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, or any Tier III plan member, who withdraws from service after the completion of at least 30 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 or Tier III 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-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,
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 retirement from service, a Tier III 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 two percent (2%) 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 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 or Tier
III 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) (g) 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:

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

"(2) 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:

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

"b. 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.

"(g) (h) 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.

"(i) Upon retirement for disability, a Tier III plan member shall receive a service retirement allowance if the member has attained age 62, or in the case of a Tier III 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 10 years of creditable service as a correctional officer, firefighter, or law enforcement officer, or if the member has completed 30 years of creditable service, otherwise, the member shall receive a disability retirement allowance which shall be equal to two percent (2%) of the member's average final compensation multiplied by the number of years of creditable service.

"(j)(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 or Tier III 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 or Tier III 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 or Tier III 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 or Tier III 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.

"(k)(1) Should a member cease to be a teacher,
except 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) (1) 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.

"(m) 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.
(n)(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) (f) 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 (l) 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 

"(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) (o) 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) (p) 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) (q) 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.

"§16-25-21.
"Effective October 1, 1997, all the assets of the
retirement system shall be credited according to the purpose
for which they are held among three funds, namely: The Annuity
Savings Fund, the Pension Accumulation Fund, and the Expense
Fund. The operation of the former Pension Reserve Fund and the
Annuity Reserve Fund shall be discontinued as of such date,
the balance of the former Pension Reserve Fund shall be
transferred to the Pension Accumulation Fund, and the balance
of the former Annuity Reserve Fund shall be transferred to the
Pension Accumulation Fund.

"(1) The Annuity Savings Fund shall be a fund in
which shall be accumulated contributions from the compensation
of members to provide for their annuities. Contributions to
and payments from the Annuity Savings Fund shall be made as
follows:

"a. Each employer shall cause to be deducted from
the salary of each member on each and every payroll of such
employer for each and every payroll period five percent of his
or her earnable compensation. For all pay dates beginning on
or after October 1, 2011, each employer shall cause to be
deducted from the salary of each member on each and every
payroll of such employer for each and every payroll period
seven and one-quarter percent (7.25%) of his or her earnable
compensation. For all pay dates beginning on or after October
1, 2012, each employer shall cause to be deducted from the
salary of each Tier I plan member on each and every payroll of
such employer for each and every payroll period seven and
one-half percent (7.5%) of his or her earnable compensation.
For all pay dates beginning on or after January 1, 2013, each
employer shall cause to be deducted from the salary of each
Tier II plan member on each and every payroll period six
percent (6%) of his or her earnable compensation; except 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, the rate of seven percent (7%) shall apply. For all pay dates beginning on or after January 1, 2020, each employer shall cause to be deducted from the salary of each Tier III plan member on each and every payroll period seven and one-half percent (7.5%) of his or her earnable compensation; except in the case of a Tier III plan member who is a correctional officer, firefighter, or law enforcement officer as defined in Section 36-27-59, the rate of seven and three-quarters percent (7.75%) shall apply. In determining the amount earnable by a member in a payroll period, the Board of Control may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one tenth of one percent of the annual compensation upon the basis of which such deduction is to be made.

"b. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deduction made and provided for herein and shall receipt for his or her full salary or compensation, and payment of salary or compensation less such deduction shall be a full and complete discharge and
acquittance of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except as to the benefits provided under this chapter. The employer shall certify to the Board of Control on each and every payroll or in such other manner as the board may prescribe the amount to be deducted; and each of the amounts shall be deducted, and when deducted shall be paid into the Annuity Savings Fund and shall be credited, together with regular interest thereon, to the individual account of the member from whose compensation the deduction was made.

"c. In addition to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the Board of Control, any member may deposit in the Annuity Savings Fund by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity which, together with his or her prospective retirement allowance, will provide for him or her a total retirement allowance not to exceed one half of his or her average final compensation at age 60. Such additional amounts so deposited shall become a part of his or her accumulated contributions except in the case of retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his or her pension. The contributions and interest credits of a member withdrawn by him or her, or paid to his or her estate or to his or her designated beneficiary in event of his or her
death, shall be paid from the Annuity Savings Fund. Should a
member cease to be a member other than by retirement under the
provisions of this title, an amount equivalent to the
difference, if any, between his or her accumulated
contributions and the amount then paid shall be transferred to
the Expense Fund. Upon the retirement of a member or the death
of an eligible member where an allowance to the surviving
spouse is payable, his or her accumulated contributions shall
be transferred from the Annuity Savings Fund to the Pension
Accumulation Fund.

   "d. Notwithstanding the preceding provisions, no
deductions shall be made from any member's salary on account
of which the employer's contribution is in default.

   "(2) The Pension Accumulation Fund shall be the fund
in which shall be accumulated all reserves, other than amounts
held in the Annuity Savings Fund for the payment of all
pensions and other benefits. Contributions to and payments
from the Pension Accumulation Fund shall be made as follows:

   "a. On account of each member there shall be paid
monthly by the employer an amount equal to a certain
percentage of the earnable compensation of each member to be
known as the "normal contribution" and an additional amount
equal to a percentage of his or her earnable compensation to
be known as the "accrued liability contribution," and these
two amounts shall be paid monthly into the Pension
Accumulation Fund. The Teachers' Retirement System shall
recommend to the Legislature on or before the first
legislative day of each regular session of the Legislature the
rate for the following fiscal year. The Legislature shall set
the rate in the annual appropriation bill.

"b. On the basis of regular interest and of such
mortality and other tables as shall be adopted by the Board of
Control, the actuary engaged by the board to make such
valuation required by this title shall, immediately after
making such valuation, determine the uniform and constant
percentage of the earnable compensation of the average new
entrant which, if contributed on the basis of his or her
compensation throughout his or her entire period of active
service, would be sufficient to provide for the payment of any
pension payable on his or her account. The rate per centum so
determined shall be known as the "normal contribution" rate.
The normal contribution rate shall be determined by the
actuary after each valuation.

"c.1. The accrued liability contribution rate shall
be computed by the actuary on the basis of each valuation as
the per centum rate of the total annual compensation of all
members which is sufficient to liquidate the unfunded accrued
liability over a period to be determined by the Board of
Control which shall be not less than 10 nor more than 30
years.

"2. The unfunded accrued liability shall be computed
by the actuary as the total liabilities of the system which
are not dischargeable by the assets of the Annuity Savings
Fund and the Pension Accumulation Fund and the present value
of the aforesaid normal contributions. For purposes of computing the unfunded accrued liability the assets shall be determined as follows:

"On June 30, 1997, the assets shall be determined by using the market value of such assets. For subsequent years the value of the assets shall be determined by the system's actuary using a five year smoothed market value.

d. The total amount payable in each year to the Pension Accumulation Fund shall be not less than the sum of the per centum rates known as the normal contribution rate and the accrued liability contribution rate of the total compensation earnable by all members during the year.

e. All interest and dividends earned on the funds of the retirement system shall be credited to the Pension Accumulation Fund. The amounts needed to allow regular interest on the reserves in the Annuity Savings Fund shall be transferred in accordance with the provisions of this chapter from the Pension Accumulation Fund. The Board of Control, in its discretion, may transfer to and from the Pension Accumulation Fund the amount of any surplus or deficit which may develop in the Annuity Savings Fund or the Expense Fund.

f. Upon the death of a member on account of whom no survivor allowance is payable under subdivision (2) of subsection (k) of Section 16-25-14, the death benefit as provided in subdivision 2 of subsection (k) of such section equal to the accumulated contributions not to exceed $5,000 shall be payable from the Pension Accumulation Fund.
(3) The Expense Fund shall be the fund from which the expenses of the administration of the retirement system shall be paid, exclusive of amounts payable as retirement allowances and as other benefits provided herein. Any amounts credited to the accounts of members withdrawing before retirement and not returnable under the provisions of subsection (k) of Section 16-25-14 shall be credited to the Expense Fund. Any additional contributions required to meet the expenses of the retirement system shall be made as provided in paragraphs c., d., and e. of subdivision (4) of this section.

(4)a. On or before October 1 of each year, each local board of education, the State Board of Education, the governing boards of the University of Alabama, Auburn University, and the University of Montevallo and the Executive Committee of the Alabama Education Association shall file with the Board of Control of the retirement system a certified statement containing the following information concerning the members of the retirement system employed by such boards for the scholastic year beginning on July first preceding the date: Name, address, monthly salary, annual salary, and such other information as the Board of Control may require. On or before July 31 of each year, each local board of education; the State Board of Education; the governing boards of the University of Alabama, Auburn University, and the University of Montevallo and the Executive Committee of the Alabama Education Association shall file with the Board of Control of
the retirement system a certified statement containing the following information concerning members of the retirement system employed by such boards during the scholastic year ending on June 30 preceding the date: Name, address, monthly salary actually paid, total annual salary actually paid, and such other information as the Board of Control may require.

"b. The collection of members' contributions shall be as follows: Each local board of education, the State Board of Education, the governing boards of the University of Alabama, Auburn University, and the University of Montevallo and the Executive Committee of the Alabama Education Association shall cause to be deducted on each and every payroll period subsequent to the date of the establishment of the retirement system the contributions payable by each member as provided in this chapter. Each employer shall transmit monthly, or at such time as the Board of Control shall designate, the total amount so deducted to the Secretary-Treasurer of the Board of Control accompanied by an itemized statement of the contributions of each individual member of the retirement system. The Secretary-Treasurer of the Board of Control after making a record of all such receipts shall transmit the same to the State Treasurer to be held for use according to the provisions of this chapter. Notwithstanding anything in this section, the Board of Control may modify the form of reports required of employers and may modify the method of collecting the contributions of members so that employers may retain the amounts so deducted and have
a corresponding amount deducted from funds otherwise payable to them.

"c. The employer's contributions shall be made from the same funds used to pay salaries based on the employer cost rate determined under paragraph a. of subdivision (2).

"d. Where member contributions are made from salaries paid from federal funds, the employer shall pay from federal funds to the Teachers' Retirement System the amount calculated as a percentage of the salaries of those teachers to be contributed by the employer in accordance with subdivisions (2) and (3) of this section. Such amounts shall be paid at the same time as the member contributions are made to the retirement system. The provisions of this paragraph shall not apply to funds received under the provisions of the Hatch Act of 1887, as amended in 1955, and the McIntyre-Stennis Act (Cooperative Forestry Research Act of 1962) of the Congress of the United States, for the support of agriculturally related research.

"e. Where member contributions are made from salaries paid by the Alabama Education Association, the Alabama Education Association shall pay the employer costs calculated as a percentage of the salaries of those employees to be contributed as employer in accordance with subdivisions (2) and (3) of this section. Such amounts shall be paid monthly and at the same time as the member contributions are made to the Teachers' Retirement System.
"f. To the extent that employer cost is collected for any increase in benefits payable to retired employees of local boards of education and state institutions of higher education who are retired under the Employees' Retirement System, there shall be a transfer of funds from these funds to the Employees' Retirement System for each year such benefits are payable.

"g. Employer cost provided for in this article together with member contributions required under this article shall be paid to the Teachers' Retirement System on the first day of the month following the month in which the related member salary is earned. Delinquent accounts shall accrue interest at the actuarial assumed investment rate beginning 30 days after the original due date. The member contributions for each member shall be reported to the Teachers' Retirement System in a format prescribed by the Teachers' Retirement System."

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