

1 HB79  
2 207522-1  
3 By Representative Pettus  
4 RFD: Ways and Means General Fund  
5 First Read: 02-FEB-21  
6 PFD: 11/30/2020

SYNOPSIS: This bill would reopen the State Police Tier II Plan to any employee of the Alabama State Law Enforcement Agency who is certified by the Alabama Peace Officers' Standards and Training Commission and performs law enforcement duties and would modify the Tier II benefits received by State Police Tier II members to allow 25-year retirement and hazardous duty time, and would clarify that an employee of the Alabama State Law Enforcement Agency who is certified by the Alabama Peace Officers' Standards and Training Commission is a state policeman.

A BILL  
TO BE ENTITLED  
AN ACT

To amend Sections 36-27-1 and 36-27-16, as amended by Act 2019-221 and Act 2019-316, 2019 Regular Session, and 41-27-7, Code of Alabama 1975, relating to retirement benefits

1 for employees who are members of the Employees' Retirement  
2 System; to reopen the State Police Tier II Plan to any  
3 employee of the Alabama State Law Enforcement Agency who is  
4 certified by the Alabama Peace Officers' Standards and  
5 Training Commission and performs law enforcement duties; to  
6 modify the Tier II benefits received by all State Police Tier  
7 II members; and to clarify that employees of the Alabama State  
8 Law Enforcement Agency are state policemen for retirement  
9 purposes.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 36-27-1 and 36-27-16, as amended  
12 by Act 2019-221 and Act 2019-316, 2019 Regular Session, and  
13 41-27-7, Code of Alabama 1975, are amended to read as follows:

14 "§36-27-1.

15 "When used in this article, the following terms  
16 shall have the following meanings, respectively, unless the  
17 context clearly indicates otherwise:

18 "(1) RETIREMENT SYSTEM. The Employees' Retirement  
19 System of Alabama as defined in Section 36-27-2.

20 "(2) EMPLOYEE. Any regular employee of the State of  
21 Alabama whose salary is paid by state warrant by the state,  
22 except a member of the Legislature of the state, a person who  
23 is covered or eligible to be covered under the Teachers'  
24 Retirement System of Alabama or any other retirement system to  
25 which contributions are made by the state, an elective  
26 official of the state government, and a temporary employee or  
27 person engaged under retainer or special agreement. In all

1 cases of doubt the Board of Control shall determine who is an  
2 employee within the meaning of this article. The term shall  
3 include any regular employee of the Alabama state hospitals  
4 and Partlow State School and Hospital and the Alabama State  
5 Port Authority, however paid.

6 "(3) EMPLOYER. The State of Alabama or any  
7 department, commission, institution, or any other agency of  
8 and within the state by which an employee is paid, including  
9 employers as provided in Section 36-27-6.

10 "(4) MEMBER. Any employee included in the membership  
11 of the system as provided in Section 36-27-4.

12 "(5) BOARD OF CONTROL. The board provided for in  
13 Section 36-27-23 to administer the retirement system.

14 "(6) MEDICAL BOARD. The board of physicians provided  
15 for in Section 36-27-23.

16 "(7) SERVICE. Service as an employee paid for by an  
17 employer.

18 "(8) PRIOR SERVICE. Service rendered prior to the  
19 date of establishment of the retirement system for which  
20 credit is allowable under Section 36-27-11.

21 "(9) MEMBERSHIP SERVICE. Service as an employee  
22 rendered while a member of the retirement system and on  
23 account of which contributions are made.

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

1           "(11) BENEFICIARY. Any person in receipt of a  
2 pension, an annuity, a retirement allowance, or other benefit  
3 as provided by this article.

4           "(12) REGULAR INTEREST. Interest compounded annually  
5 at the rate determined by the Board of Control in accordance  
6 with subsection (f) of Section 36-27-25.

7           "(13) ACCUMULATED CONTRIBUTIONS. The sum of all the  
8 amounts deducted from the compensation of a member credited to  
9 his or her individual account in the Annuity Savings Fund,  
10 together with regular interest thereon, as provided in Section  
11 36-27-24.

12           "(14) EARNABLE COMPENSATION. The full rate of  
13 compensation that would be payable to an employee if he or she  
14 worked the full normal work-time. In cases where compensation  
15 includes maintenance, the Board of Control shall fix the value  
16 of that part of the compensation not paid in money. Earnable  
17 compensation shall not exceed the limitations imposed by  
18 Section 401(a) (17) of the Internal Revenue Code for public  
19 pension funds, except that any employee who was a member of  
20 the Employees' Retirement System before the first plan year  
21 beginning after December 31, 1995, shall not be subject to the  
22 earning limitations set forth in Section 401(a) (17). For Tier  
23 I plan members, the term earnable compensation for retirement  
24 purposes shall not include subsistence payments that are made  
25 to a member and shall include overtime payments that are made  
26 to a member; however, earnable compensation shall not exceed  
27 120 percent of any members' annual base compensation as

1 certified by the employer. For Tier II plan members, earnable  
2 compensation shall include overtime payments that are made to  
3 the member but shall not include subsistence payments that are  
4 made to the member and shall not exceed one hundred  
5 twenty-five percent (125%) of the member's annual base  
6 compensation, as certified by the employer.

7 "(15) AVERAGE FINAL COMPENSATION. For any Tier I  
8 plan member, the average annual compensation of the member,  
9 with respect to which he or she had made contributions  
10 pursuant to subsection (b) of Section 36-27-24 during the  
11 three years, in his or her last 10 years of creditable service  
12 for which the average is highest or during his or her entire  
13 period of creditable service if less than three years; except,  
14 that for any period prior to November 1, 1959, the  
15 compensation used in computing the average shall include  
16 compensation in excess of the maximum amount with respect to  
17 which members were required to contribute. For any Tier II  
18 plan member, the average annual compensation of the member,  
19 with respect to which he or she has made contributions  
20 pursuant to subsection (b) of Section 36-27-24 during the five  
21 years, in his or her last ~~ten~~ 10 years of creditable service  
22 for which the average is highest or during his or her entire  
23 period of creditable service if less than five years.

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

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

4           "(18) RETIREMENT ALLOWANCE. The sum of the "annuity"  
5 and the "pension."

6           "(19) RETIREMENT. Withdrawal from active service  
7 with a retirement allowance or optional benefit in lieu  
8 thereof granted under this article.

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

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

17           "(22) ACTUARIAL EQUIVALENT. A benefit of equal value  
18 when computed upon the basis of the mortality tables adopted  
19 by the Board of Control and regular interest.

20           "(23) STATE POLICEMAN. An employee in the classified  
21 service under the Merit System Act approved by the State  
22 Personnel Board to perform the duties of highway patrolman or  
23 a beverage control agent or a crime investigator. The term  
24 includes any employee ~~hired by~~ of the Alabama State Law  
25 Enforcement Agency ~~after January 1, 2015,~~ who is certified by  
26 the Alabama Peace Officers' Standards and Training Commission  
27 and performs law enforcement duties. ~~Such an employee of the~~

1 ~~Alabama State Law Enforcement Agency shall pay the same~~  
2 ~~employee contribution rate as and receive the same benefits as~~  
3 ~~Tier II law enforcement officers, as defined by Section~~  
4 ~~36-27-59(a)(3).~~ The term shall not include a member employed  
5 as a policeman under Section 36-27-6.

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

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

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

14 "(27) TIER II PLAN MEMBER. Any member of the  
15 Retirement System who first began eligible employment with an  
16 Employees' Retirement System or a Teachers' Retirement System  
17 participating employer on or after January 1, 2013, and who  
18 had no eligible service in the Employees' Retirement System or  
19 the Teachers' Retirement System prior to January 1, 2013.

20 "§36-27-16.

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

23 "a. Any Tier I plan member who withdraws from  
24 service upon or after attainment of age 60 and any Tier II  
25 plan member who withdraws from service upon or after  
26 attainment of age 62 may retire upon written application to  
27 the Board of Control setting forth at what time, not less than

1 30 days nor more than 90 days subsequent to the execution and  
2 filing thereof, he or she desires to be retired; provided,  
3 that any such member who became a member on or after October  
4 1, 1963, shall have completed 10 or more years of creditable  
5 service; provided further, that a Tier I or Tier II plan  
6 member employed as a state policeman shall be eligible to file  
7 application for service retirement upon attaining age 52 and a  
8 Tier II plan member employed as ~~a state policeman or employed~~  
9 ~~as~~ a correctional officer, firefighter, or law enforcement  
10 officer as defined in Section 36-27-59 with at least ~~ten~~ 10  
11 years of creditable service as a correctional officer,  
12 firefighter, or law enforcement officer shall be eligible to  
13 file application for service retirement upon attaining age 56.

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

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

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

22 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

26 "1. An annuity which shall be the actuarial  
27 equivalent of his or her accumulated contributions at the time

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 "g. Anything in this article to the contrary  
21 notwithstanding, in the application of the foregoing  
22 provisions of this subdivision to a member whose creditable  
23 service includes a period of service as a state policeman and  
24 a period of service in another employment classification, the  
25 benefit rates applicable to a member employed as a state  
26 policeman shall apply to all creditable service as a state  
27 policeman, and the benefit rates applicable to a member not

1 employed as a state policeman shall apply to all creditable  
2 service, but in all other respects the pension under this  
3 subdivision shall be determined on the basis of the member's  
4 employment classification at the time of his or her withdrawal  
5 from service.

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

14 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;  
15 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

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

1 has had 10 or more years of creditable service may be retired  
2 by the Board of Control on a disability retirement allowance  
3 not less than 30 nor more than 90 days next following the date  
4 of filing such application; provided, that the medical board,  
5 after a medical examination of such member, shall certify that  
6 the member is totally and permanently mentally or physically  
7 incapacitated from regular and substantial gainful employment,  
8 and that member should be retired.

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

1 that such incapacity is likely to be permanent, and that such  
2 member should be retired.

3 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

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

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

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

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

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

15           "2. If he or she became a member before October 1,  
16 1965, \$54.00 multiplied by the number of years of his or her  
17 creditable service not in excess of 25 years.

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

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

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

5 "2. If he or she became a member before October 1,  
6 1965, \$64.80 multiplied by the number of years of his or her  
7 creditable service not in excess of 25 years.

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

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

18 "f. Anything in this chapter to the contrary  
19 notwithstanding in the application of the provisions of this  
20 subdivision to a member whose creditable service includes a  
21 period of service as a state policeman and a period of service  
22 in another employment classification the benefit rates  
23 applicable to a member employed as a state policeman shall  
24 apply to all creditable service as a state policeman, and the  
25 benefit rates applicable to a member not employed as a state  
26 policeman shall apply to all other creditable service, but in  
27 all other respects the pension under this subdivision shall be

1 determined on the basis of the member's employment  
2 classification at the time of his or her withdrawal from  
3 service.

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

1 enforcement officer as defined in Section 36-27-59 with at  
2 least ~~ten~~ 10 years of creditable service as a correctional  
3 officer, firefighter, or law enforcement officer retired for  
4 disability who has attained age 56 if he or she is a Tier II  
5 plan member. Should the medical board report and certify to  
6 the Board of Control that a disability beneficiary who is a  
7 Tier I plan member is engaged in or is able to engage in a  
8 gainful occupation paying more than the difference between his  
9 or her retirement allowance and his or her average final  
10 compensation and should the Board of Control concur in such  
11 report, then the amount of his or her pension shall be reduced  
12 to an amount which, together with his or her annuity and the  
13 amount earnable by him or her shall equal the amount of his or  
14 her average final compensation. Should his or her earning  
15 capacity be later changed, the amount of his or her pension  
16 may be further modified; provided, that the new pension shall  
17 not exceed the amount of the pension originally granted nor an  
18 amount which, when added to the amount earnable by the  
19 beneficiary, together with this annuity exceeds the amount of  
20 his or her average final compensation.

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

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

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

18           "(2) In case of the death of a member eligible for  
19 service retirement pursuant to subsection (a) of this section,  
20 an allowance shall be paid to the surviving spouse, or to such  
21 other person who the member shall have designated, in an  
22 amount that would have been payable if the member had retired  
23 immediately prior to his or her death and had elected Option  
24 3, as set forth in subsection (d) of this section or,  
25 alternatively, if the surviving spouse or other designee  
26 desires, he or she may choose to receive, in lieu of the  
27 allowance provided under Option 3, the accumulated

1 contributions of the member plus an amount equal to the  
2 accumulated contributions of the member not to exceed  
3 \$5,000.00 or the accumulated contributions of the member plus  
4 the benefit provided by Section 36-27B-3 if a benefit is  
5 payable under such section;

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

21 "(4) Upon the death of a member on account of whom  
22 no survivor allowance is payable under subdivisions (2) or (3)  
23 of this subsection, the accumulated contributions of the  
24 member plus an amount equal to the accumulated contributions  
25 not to exceed \$5,000 or the accumulated contributions of the  
26 member plus the benefit provided by Section 36-27B-3 if a  
27 benefit is payable under such section shall be paid to his or

1 her estate or to such person as he or she shall have nominated  
2 by written designation duly executed and filed with the Board  
3 of Control.

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

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

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

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

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

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

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

1 for restoration to membership; provided, that such beneficiary  
2 whose retirement allowance has been suspended shall repay to  
3 the system all moneys received by him or her as benefits  
4 during any periods subsequent to the date of his or her  
5 reentry into active service and shall make a contribution  
6 equal to the amount he or she would have contributed had he or  
7 she been a member during the period of his or her restoration  
8 to active service on a suspended allowance basis together with  
9 the interest which would have been credited to the  
10 contributions on account of such period of restoration up to  
11 the date such contribution is made.

12 "(f) (1) REDETERMINATION, ETC., OF CERTAIN  
13 ALLOWANCES. All retirement allowance payments due on or after  
14 October 1, 1975, to members who retired prior to that date  
15 shall be redetermined as if the provisions of this section in  
16 effect on October 1, 1975, were in effect at the time the  
17 member retired. Anything in this article to the contrary  
18 notwithstanding, the annual retirement allowance of any member  
19 not employed as a state policeman who retired on or before  
20 January 1, 1956, shall not be less than \$79.20 multiplied by  
21 the number of years of his or her creditable service not in  
22 excess of 30 years in the case of service retirement of \$59.40  
23 multiplied by the number of years of his or her creditable  
24 service not in excess of 30 years in the case of disability  
25 retirement. Any increase provided in the retirement allowance  
26 payment under this subdivision for a member who retired under  
27 the provisions of any optional benefit elected pursuant to

1 subsection (d) of this section shall accrue only to the  
2 retired member, and no person designated to receive any  
3 payments after the death of a retired member under the  
4 provisions of any such optional benefit shall receive any  
5 increase in such payments under this subdivision.

6 Notwithstanding, any member who retired prior to October 1,  
7 1975, and who chose either Option 2 or Option 3 may elect to  
8 receive a reduced allowance and to stipulate that the  
9 actuarial equivalent of the increase in his or her retirement  
10 allowance, which became effective on that date, be ascribed to  
11 his or her designated beneficiary; provided, that such member  
12 shall clearly express this intention by filing a written  
13 application to the effect with the Secretary-Treasurer of the  
14 Employees' Retirement System of Alabama prior to October 1,  
15 1976.

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

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

26 "b. If such person was retired after January 1,  
27 1956, an amount equal to \$72.00 multiplied by the number of

1 years of his or her creditable service not in excess of 25  
2 years.

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

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

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

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

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

21 "§41-27-7.

22 "(a) For the purposes of this article, the term  
23 "legacy agency" means an existing agency, department, or  
24 division that is being reorganized or abolished under this  
25 article.

1           "(b) Unless otherwise provided in this article, all  
2 positions created by this article shall be in the classified  
3 service of the state Merit System.

4           "(c) All persons employed on January 1, 2015, with a  
5 legacy agency and transferred to the Alabama State Law  
6 Enforcement Agency, Department of Public Safety, or State  
7 Bureau of Investigations shall maintain his or her  
8 classification and benefits under the legacy agency. A person  
9 employed by a legacy agency on January 1, 2015, shall not  
10 receive a decrease in salary, benefits, or seniority or  
11 otherwise receive a decrease in classification as a result of  
12 the transfer to the Alabama State Law Enforcement Agency,  
13 Department of Public Safety, or State Bureau of  
14 Investigations.

15           "(d) Any future change in classification shall not  
16 result in any change in benefits an employee previously had at  
17 a legacy agency.

18           "(e) An employee of a legacy agency transferred to  
19 the Alabama State Law Enforcement Agency, Department of Public  
20 Safety, or State Bureau of Investigations under this article  
21 shall remain in his or her current classification unless  
22 appointed to the appropriate classification within the newly  
23 created department according to state Merit System procedures.

24           "(f) Any employee hired ~~in~~ or transferred into the  
25 Alabama State Law Enforcement Agency after January 1, 2015,  
26 who is certified by the Alabama Peace Officers' Standards and  
27 Training Commission and ~~performs law enforcement duties shall~~

1 ~~be considered a law enforcement officer, as defined by Section~~  
2 ~~36-27-59(a)(3), but~~ is a state policeman is not eligible for  
3 the benefits specified in Section 36-26-35(d)."

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