SB57

197416-1

By Senator Ward

RFD: Governmental Affairs

First Read: 05-MAR-19
SYNOPSIS: Existing law provides for the payment of retirement benefits to members of the Judicial Retirement Fund, the Teachers' Retirement System, and the Employees' Retirement System.

This bill would enable the Judicial Retirement Fund, the Teachers' Retirement System, and the Employees' Retirement System to pay the retirement allowance to a special needs trust where the member has designated as beneficiary a beneficiary of a special needs trust.

A BILL TO BE ENTITLED
AN ACT

Relating to the Retirement Systems of Alabama; to amend Sections 12-18-156, 16-25-14, and 36-27-16, Code of Alabama 1975, to provide that a member of the Retirement Systems of Alabama may designate that a portion of his or her
retirement benefits be paid to a special needs trust for the
benefit of a dependent child.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 12-18-156, 16-25-14, and
36-27-16, Code of Alabama 1975, are amended to read as
follows:

"§12-18-156.

"(a) Should a member cease to be a judge or clerk
except by death or by retirement under the provisions of this
article, the contributions standing to the credit of his or
her individual account in the 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.

"(b) In case of the death of a member eligible for
service retirement pursuant to Section 12-18-154, an allowance
shall be paid to the surviving spouse, or to such other person
who the member shall have designated, in an amount that would
have been payable if the member had retired immediately prior
to his or her death and had elected Option 3, as set forth in subsection (d) or, alternatively, if the surviving spouse or other designee desires, he or she may choose to receive, in lieu of the allowance provided under Option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed $5,000.00 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section.

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

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

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

"(3) OPTION 3. Upon his or her death, one half of his or her reduced allowance shall be continued throughout the life of and paid to such the 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 the person or persons as he or she shall nominate; provided, that such other benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his or her retirement allowance and shall be approved by the Board of Control.

"(5) Where the person designated by the member under this subsection to receive a continued retirement allowance is a beneficiary of a special needs trust established under Title
42, United States Code, Section 1396p(d)(4)(A) or (C), as amended, the retirement allowance payable to the person may be paid by the retirement system to the special needs trust upon written direction to the retirement system by the member or, after the member is deceased, by the designated person or by his or her legal representative if the designated person is a minor or is incapacitated.

"(e) 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.

"(f) 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.

"§16-25-14.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(i)(1) Should a member cease to be a teacher, 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) 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 the 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 the 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 the 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 the person or persons
as he or she shall nominate; provided, that such other benefit
or benefits, together with the reduced retirement allowance,
shall be certified by the actuary to be of equivalent
actuarial value to his or her retirement allowance and shall
be approved by the Board of Control.

"(5) Where the person designated by the member under
this subsection to receive a continued retirement allowance is
a beneficiary of a special needs trust established under Title
42, United States Code, Section 1396p(d)(4)(A) or (C), as amended, the retirement allowance payable to the person may be paid by the retirement system to the special needs trust upon written direction to the retirement system by the member or, after the member is deceased, by the designated person or by his or her legal representative if the designated person is a minor or is incapacitated.

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

"(1)(1) All retirement allowance payments due on or
after October 1, 1975, to members who retired prior to October
1, 1975, shall be redetermined as if the provisions of
subsections (b) and (e) of this section which became effective
on said date were in effect at the time the member retired;
provided, that the annual retirement allowance of any member
who retired on or before January 1, 1956, shall be not less
than $132 multiplied by the number of years of his or her
creditable service not in excess of 30 years in the case of
service retirement or $99 multiplied by the number of years of
creditable service not in excess of 30 years in the case of
disability retirements. Any increase provided in the
retirement allowance payment under this subsection for a
member who retired under the provisions of any optional
benefit elected pursuant to subsection (j) of this section
shall accrue only to the retired member, and no person
designated to receive any payments after the death of a
retired member under the provisions of any such optional
benefit shall receive any increase in such payments under this
subsection.

"(2) Any person who served at least 30 years as a
teacher in the public schools of Alabama and was never a
member of the system and who, prior to October 1, 1963, was in
receipt of a benefit for old age assistance pursuant to
subsections (1) and (2) of Section 1 of Act 116, approved
August 24, 1959, shall be entitled to receive an annual retirement allowance of $3,960 from the system, effective as of October 1, 1973.

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

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

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

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

"§36-27-16.

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

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

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

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

"(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

"1. An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement; except, that in the case of a state
1 policeman who has completed 20 years of creditable service as
2 a state policeman who retires after age 56 but prior to age
3 60, the annuity shall be equal to the annuity that would have
4 been payable upon service retirement at age 60 had the member
5 continued in service to age 60 without change in compensation;
6 "2. A pension which shall be equal to the annuity
7 allowance at age of retirement, but not to exceed an annuity
8 allowable at age 65, computed on the basis of contributions
9 made prior to attainment of age 65; except, that in the case
10 of a state policeman who has completed 20 years of creditable
11 service as a state policeman who retires after age 56 but
12 prior to age 60, the pension shall be equal to the annuity
13 that he or she would have received had he or she contributed
14 to age 60 without change in compensation; and
15 "3. An additional pension, if he or she has a prior
16 service certificate in full force and effect, which shall be
17 equal to the annuity which would have been provided at the age
18 of retirement, but which shall not exceed an annuity allowable
19 at age 65 by twice the contributions which he or she would
20 have made during the period of prior service with which he or
21 she is credited had the system been in operation and had he or
22 she contributed thereunder; except, that in case of a state
23 policeman who has completed 20 years of creditable service as
24 a state policeman who retired after age 56 but prior to age
25 60, an additional pension, if he or she has a prior service
26 certificate in full force and effect, which shall be equal to
27 the annuity which would have been provided at age 60, but
which shall not exceed an annuity allowable at age 60 by twice
the contributions which he or she would have made during the
period of prior service with which he or she is credited had
the system been in operation and had he or she contributed
thereunder.

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

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

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

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

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

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

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

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

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

Page 25
a bonus equal to four additional years. Creditable service for
a state policeman 56 years or older shall include a bonus
equal to the years or portion thereof remaining until the
member reaches age 60; or

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

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

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

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

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

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

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

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

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

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

"2. A pension which shall be equal to the pension that would have been payable under subparagraphs 2 and 3 of paragraph a. of subdivision (2) of subsection (a) of this section upon service retirement at age 65 had the member continued in service to that age without change in compensation."
"b. The annual disability retirement pension payable
to a Tier I plan member not employed as a state policeman
retiring on or after October 1, 1975, shall not be less than
an amount which when added to his or her annuity is equal to
the greatest of the following two amounts:

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

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

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

"1. Two and seven-eighths percent of the member's
average final compensation multiplied by the number of years
of his or her creditable service. Creditable service for any
state policeman under the age of 56 years who has completed 20
years of creditable service as a state policeman shall include
a bonus equal to four additional years. Creditable service for
a state policeman 56 years or older shall include a bonus
equal to the years or portion thereof remaining until the
member reaches age 60; or
"2. If he or she became a member before October 1, 1965, $64.80 multiplied by the number of years of his or her creditable service not in excess of 25 years.

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

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

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

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

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

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

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

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

"(4) Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) or (3) of this subsection, the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed $5,000 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the Board of Control.
(d) Optional allowances. With the provision that the election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in lieu of his or her retirement allowance payable throughout life, the actuarial equivalent, at that time, of his or her retirement allowance in a reduced retirement allowance payable throughout life with the provisions that:

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

"(3) OPTION 3. Upon his or her death, one half of his or her reduced allowance shall be continued throughout the life of and paid to such the 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 the person or persons as he or she shall nominate; provided, that such other benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his or her retirement allowance and shall be approved by the Board of Control.

"(5) Where the person designated by the member under this subsection to receive a continued retirement allowance is a beneficiary of a special needs trust established under Title 42, United States Code, Section 1396p(d)(4)(A) or (C), as amended, the retirement allowance payable to the person may be paid by the retirement system to the special needs trust upon written direction to the retirement system by the member or, after the member is deceased, by the designated person or by his or her legal representative if the designated person is a minor or is incapacitated.

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

"(f)(1) REDETERMINATION, ETC., OF CERTAIN ALLOWANCES. All retirement allowance payments due on or after October 1, 1975, to members who retired prior to that date shall be redetermined as if the provisions of this section in effect on October 1, 1975, were in effect at the time the member retired. Anything in this article to the contrary notwithstanding, the annual retirement allowance of any member not employed as a state policeman who retired on or before January 1, 1956, shall not be less than $79.20 multiplied by the number of years of his or her creditable service not in excess of 30 years in the case of service retirement of $59.40 multiplied by the number of years of his or her creditable service not in excess of 30 years in the case of disability retirement. Any increase provided in the retirement allowance payment under this subdivision for a member who retired under
the provisions of any optional benefit elected pursuant to subsection (d) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subdivision.

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

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

"a. If such person was retired on or before January 1, 1956, an amount equal to $79.20 multiplied by the number of years of his or her creditable service not in excess of 30 years.
"b. If such person was retired after January 1, 1956, an amount equal to $72.00 multiplied by the number of years of his or her creditable service not in excess of 25 years.

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

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

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

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

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