HB508
136023-4
By Representatives Ison and McCutcheon
RFD: State Government
First Read: 08-MAR-12
SYNOPSIS: Under existing law, retirement benefits are provided to public employees through the Teachers' Retirement System and the Employees' Retirement System.

This bill will establish a new defined benefit retirement plan for any public employee who is first hired on or after January 1, 2013, by an employer who participates in the Teachers' Retirement System or the Employees' Retirement System.

A BILL
TO BE ENTITLED
AN ACT

System, to establish a new defined benefit retirement plan for employees who first become a member of either system on or after January 1, 2013; to require those employees to pay a percentage of their salary into the new plan; to establish minimum age and service requirements in order for those employees to retire under the new plan; and to provide for the administration of the new plan by the Retirement Systems of Alabama.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:


" §16-25-1."

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

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

"(2) PUBLIC SCHOOL. Any day school conducted within the state under the authority and supervision of a duly elected or appointed county or city board of education and any educational institution supported by and under the control of the state or any private nondenominational school operated nonprofit for the education of children of school age residing within a district where no public school is available for the children."
"(3) TEACHER. Any teacher, principal, superintendent, supervisor, college professor, administrative officer, or clerk employed in any public school or public college within the state or employed in any private nondenominational school operated nonprofit for the education of children of school age residing within a district where no public school is available for the children or any similar employee or officer of the Department of Education or of the Alabama Education Association, or any attendance worker 50 percent or more of whose salary is paid from public school funds or any employee receiving a regular stated compensation from the retirement system. In all cases of doubt, the Board of Control shall determine whether any person is a teacher as defined in this chapter.

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

"(5) EMPLOYER. The State of Alabama, the county school board, the city school board, the State Board of Education, or any governing body of any private nondenominational school operated nonprofit for education of children of school age residing within a district where no public school is available for the children or any other agency of and within the state by which a teacher is paid.
"(6) MEMBER. Any teacher included in the membership of the system as provided in Section 16-25-3.

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

"(8) MEDICAL BOARD. The board of physicians provided for in Section 16-25-19.

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

"(10) SERVICE. Service as a teacher.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(29) TIER I PLAN MEMBER. Any member of the
Retirement System who had service for which he or she received
credit in the Teachers' Retirement System or in the Employees'
Retirement System prior to the effective date of this act.

"(30) TIER II PLAN MEMBER. Any member of the
Retirement System who first began eligible employment with a
Teachers' Retirement System or an Employees' Retirement System
participating employer on or after the effective date of this
act and who had no eligible service in the Teachers'
Retirement System or the Employees' Retirement System prior to
the effective date of this act.

"§16-25-3.
"(a) The membership of the retirement system shall consist of the following: All persons who shall become teachers after the date of establishment shall become members of the retirement system as a condition of their employment. Any person who is a teacher on the date of establishment shall become a member as of that date unless within a period of 90 days next following such teacher shall file with the Board of Control on a form prescribed by the board a notice of his election not to be covered in the membership of the system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the retirement system.

"(b) A teacher in service on October 1, 1973, whose membership in the retirement system was contingent on his own election and who elected not to become a member may thereafter apply for and be admitted to membership with all prior service credit and with all membership service credit as otherwise provided for in this chapter by applying for such membership within 150 days from September 17, 1973; provided, that said teacher pays to the treasurer of the said retirement system on or before October 1, 1974, a sum equal to the total contributions which he would have made as a member during the period of his employment as a teacher from September 1, 1941 to the date of his application for membership, plus compound interest of eight percent on such contributions. Any member or any retired member who at one time taught as a nonmember may now receive credit for prior service and for the years taught
as a nonmember; provided, that said member or said retired
member, within 150 days from September 17, 1973, pays to the
treasurer of the said retirement system a sum equal to the
total contributions which he would have made as a member
during the period of his employment as a teacher from
September 1, 1941 to the date he became a member, plus
compound interest of eight percent on such contributions. As
soon as practicable after the expiration of the time for
making such elections, the Department of Education, at the
request of the Governor, shall furnish him a report of the
number of teachers in service who applied for membership or
credit for prior service. The Board of Control of the
Teachers' Retirement System shall determine and report to the
Governor the employer cost for such coverage.
"(c) The Board of Control may, in its discretion,
deny the right to become members to any class of teachers
whose compensation is only partly paid by the state or who are
serving on a temporary or other than per annum basis, and it
also may, in its discretion, make optional with members in any
such class their individual entrance into the retirement
system. Should any member in any period of six consecutive
years after becoming a member be absent from service more than
five years or withdraw his contributions, as provided in
subsection (g) of Section 16-25-14, or retire or die, he shall
thereupon cease to be a member.
"(d) Notwithstanding, a teacher in service on
October 1, 1975, who has full-time military service in the
armed forces of the United States, exclusive of service in a
reserve or national guard component of any branch of the armed
forces, and who has not received credit toward retirement
status in the Teachers' Retirement System of Alabama for said
military service, may be granted by the Board of Control
membership service credit for the period of such service in
the armed forces; provided, that such member pays into the
 Teachers' Retirement System, in a lump sum prior to October 1,
1976, an amount equal to four percent of the average
compensation paid to a teacher during each claimed year of
full-time military service, plus and together therewith, eight
percent interest compounded from the last date of such claimed
military service; provided further, that such a member shall
not receive membership service credit for more than four years
of military service and shall receive no credit for military
service if such member is receiving military service
retirement benefits, other than disability allowances or
benefits, from any branch of the United States armed forces or
by reason of any such service in any branch of the armed
forces or if such member received anything other than an
honorable discharge for and including the claimed military
service.

"(e) Anything in this chapter to the contrary
notwithstanding, if any person becoming a member of the
Teachers' Retirement System after October 1, 1975 shall have
served in the armed forces of the United States, exclusive of
service in a reserve or national guard component of any branch
of the armed forces, such member may be granted by the Board of Control membership service credit for such period of service in the armed forces; provided, that such member pays into the Teachers' Retirement System, in a lump sum within one year next after the first day of the pay period in which the first deduction to the Teachers' Retirement System is made, after having been honorably discharged from the armed forces, an amount equal to four percent of the average compensation paid to a teacher during each claimed year of full-time military service, plus and together therewith, eight percent interest compounded from the last date of such claimed military service; provided further, that no member shall receive more than four years' membership service credit for military service, and no credit for military service shall be granted if such member is receiving military service retirement benefits, other than disability allowances or benefits, from any branch of the United States armed forces or by reason of any service in any branch of the armed forces or if such member received anything other than an honorable discharge for and including the claimed military service.

"(f) Except as provided in this section, no benefit under the retirement system other than the return of contributions as provided in subsection (g) of Section 16-25-14 shall become payable to or on account of any member while he is not in service as a teacher, unless the member withdraws from service after reaching age 60 for a Tier I plan member, or age 62 for a Tier II plan member; provided, that a
teacher who becomes a member on or after October 1, 1963 must have 10 or more years of creditable service when he withdraws from service after reaching age 60 for a Tier I plan member, or age 62 for a Tier II plan member.

"(g) Anything in this title to the contrary notwithstanding, any member who, at the time of his withdrawal from service, has completed the age and service requirements established by the Board of Control for eligibility for deferred benefits shall be eligible to continue in the membership of the system until he files application for service retirement in accordance with the provisions of Section 16-25-14. The Board of Control shall, from time to time, establish the minimum age and the minimum number of years of creditable service which shall be required in order that a member may be eligible 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. Unless and until changed by the Board of Control, the requirements for deferred benefits shall be the completion of 25 years of creditable service or the completion of 10 years of creditable service and the attainment of age 55 at the time of withdrawal from service.

§16-25-11.1.

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

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

"§16-25-14.

"(a)(1) Any Tier I plan member who withdraws from service upon or after attainment of age 60 and any Tier II 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 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 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 desires to be retired;
provided, that the said member shall have completed at the
time for his 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 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 accumulated contributions at the time of his 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 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 would have made during the
period of prior service with which he is credited had the system been in operation and had he 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 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 creditable service; or

"(2) If he became a member before October 1, 1971, $72 multiplied by the number of years of his 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 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) (d) Upon the application of a Tier I plan
member in service or of his 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
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 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 shall receive a disability retirement allowance which shall consist of:

"(1) An annuity which shall be the actuarial equivalent of his 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 said age without change in compensation.

"The annual disability retirement pension shall not be less than an amount which when added to his 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 became a member before October 1, 1971, $54 multiplied by the number of years of his 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 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, 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) (f) (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 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 pension may be discontinued
until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Control.

"(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 retirement allowance and his average final compensation and should the Board of Control concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his 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 annuity, equals the amount of his 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) (g) (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
individual account in the Annuity Savings Fund shall be paid to him upon demand, and in addition to such payment there shall be paid five-tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six-tenths of such interest accumulations if he shall have not less than 16 but less than 21 years of membership service, seven-tenths of such interest accumulations if he shall have not less than 21 but less than 26 years of membership service, and eight-tenths of such interest accumulations if he 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 death and had elected Option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he 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) In case of the death of a 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 death and had elected Option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he 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) (4) Upon the death of a member on account of whom no survivor allowance is payable under subdivision (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 estate or to such person as he shall have nominated by written designation duly executed and filed with the Board of Control.

"(j) (h) 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 retirement allowance payable throughout life, the
actuarial equivalent at that time of his retirement allowance
in a reduced retirement allowance payable throughout life with
the provision that:

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

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

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

"(4) OPTION 4. Some other benefit or benefits shall
be paid either to the member or to such person or persons as
he 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 retirement allowance and shall be
approved by the Board of Control.
(k) Should any beneficiary be restored to active service, his retirement allowance shall be suspended until he again withdraws from service and, he shall not again become a member, nor shall he 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 reentry into active service, he may request the Board of Control to allow him 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 as benefits during any period subsequent to the date of his reentry into active service; provided further, that he shall make a contribution equal to the amount he would have contributed had he been a member during the period of his 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.

(l) 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 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 (h) of this section
shall accrue only to the retired member, and no person
designated to receive any payments after the death of a
retired member under the provisions of any such optional
benefit shall receive any increase in such payments under this
subsection.

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

"(3) Prior to October 31, 1975 any beneficiary may
elect to leave on deposit with the system all or a specified
part of any increase in his 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 credit, including regular interest to the date of death, shall be paid in a lump sum to his legal representative or to such person as he 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.

"§16-25-21.

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

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

"a. Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period five percent of his or her earnable compensation. For all pay dates beginning on or after October 1, 2011, each employer shall cause to be
deducted from the salary of each member on each and every payroll of such employer for each and every payroll period seven and one-quarter percent (7.25%) of his or her earnable compensation. For all pay dates beginning on or after October 1, 2012, each employer shall cause to be deducted from the salary of each Tier I plan member on each and every payroll of such employer for each and every payroll period seven and one-half percent (7.5%) of his or her earnable compensation. For all pay dates beginning on or after the effective date of this act, each employer shall cause to be deducted from the salary of each Tier II plan member on each and every payroll period six percent (6%) of his or her earnable compensation. In determining the amount earnable by a member in a payroll period, the Board of Control may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one tenth of one percent of the annual compensation upon the basis of which such deduction is to be made.

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

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

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

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

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

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

"c.1. The accrued liability contribution rate shall
be computed by the actuary on the basis of each valuation as
the per centum rate of the total annual compensation of all
members which is sufficient to liquidate the unfunded accrued
liability over a period to be determined by the Board of
Control which shall be not less than 10 nor more than 30
years.
"2. The unfunded accrued liability shall be computed by the actuary as the total liabilities of the system which are not dischargeable by the assets of the Annuity Savings Fund and the Pension Accumulation Fund and the present value of the aforesaid normal contributions. For purposes of computing the unfunded accrued liability the assets shall be determined as follows:

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

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

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

"f. Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) and (3)
of subsection (i) (g) of Section 16-25-14, the death benefit as provided in subdivision (2) 2 of subsection (i) (g) of such section equal to the accumulated contributions not to exceed $5,000 shall be payable from the Pension Accumulation Fund.

"(3) The Expense Fund shall be the fund from which the expenses of the administration of the retirement system shall be paid, exclusive of amounts payable as retirement allowances and as other benefits provided herein. Any amounts credited to the accounts of members withdrawing before retirement and not returnable under the provisions of subsection (i) (g) of Section 16-25-14 shall be credited to the Expense Fund. Any additional contributions required to meet the expenses of the retirement system shall be made as provided in paragraphs c., d., and e. of subdivision (4) of this section.

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

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

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

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

"e. Where member contributions are made from salaries paid by the Alabama Education Association, the Alabama Education Association shall pay the employer costs calculated as a percentage of the salaries of those employees to be contributed as employer in accordance with subdivisions
(2) and (3) of this section. Such amounts shall be paid monthly and at the same time as the member contributions are made to the Teachers' Retirement System.

"f. To the extent that employer cost is collected for any increase in benefits payable to retired employees of local boards of education and state institutions of higher education who are retired under the Employees' Retirement System, there shall be a transfer of funds from these funds to the Employees' Retirement System for each year such benefits are payable.

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

"§36-26-36.1.

"(a) Any Tier I plan member of the Teachers' or Employees' Retirement System of Alabama not otherwise covered by a provision to convert unused sick leave into membership service for purposes of service retirement may, at their option and in lieu of receiving payment for 50 percent of their accrued and unused sick leave at the time of their
retirement as provided in Section 36-26-36, or any other payment that may be provided for such unused sick leave, use their accrued sick leave, up to a maximum number of 180 accrued sick leave days or as otherwise allowed by law, whichever is greater, to be included as membership service in determining the total years of creditable service in the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama; provided that no employee of an employer participating in the Employees' Retirement System pursuant to Section 36-27-6 shall be entitled to the benefits provided herein unless such employer shall elect to come under the provisions of this section and further elects to fund the benefits provided herein. Unused sick leave may be converted to membership service only for the purpose of applying for service retirement and may be considered in the determination of eligibility for retirement. Said conversion shall not apply to eligibility for deferred retirement. It is further provided that if an employee a Tier I plan member eligible for service retirement is also eligible for disability retirement such employee the member may elect disability retirement and also receive credit for accumulated sick leave pursuant to this section. No employee Tier I plan member shall receive both service credit provided for by this section and payment or partial payment for accrued sick leave pursuant to any other provision of law.
"(b) The conversion of accrued sick leave into
creditable service provided in this section shall not apply to
any Tier II plan member.

"§36-27-1.

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

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

"(2) EMPLOYEE. Any regular employee of the State of
Alabama whose salary is paid by state warrant by the state,
except a member of the Legislature of the state, a person who
is covered or eligible to be covered under the Teachers'
Retirement System of Alabama or any other retirement system to
which contributions are made by the state, an elective
official of the state government, and a temporary employee or
person engaged under retainer or special agreement. In all
cases of doubt the Board of Control shall determine who is an
employee within the meaning of this article. The term shall
include any regular employee of the Alabama state hospitals
and Partlow State School and Hospital and the Alabama State
Port Authority, however paid.

"(3) EMPLOYER. The State of Alabama or any
department, commission, institution, or any other agency of
and within the state by which an employee is paid, including
employers as provided in Section 36-27-6.
"(4) MEMBER. Any employee included in the membership of the system as provided in Section 36-27-4.

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

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

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

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

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

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

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

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

"(13) ACCUMULATED CONTRIBUTIONS. The sum of all the amounts deducted from the compensation of a member credited to his or her individual account in the Annuity Savings Fund, together with regular interest thereon, as provided in Section 36-27-24.
(14) EARNABLE COMPENSATION. The full rate of compensation that would be payable to an employee if he or she worked the full normal work-time. In cases where compensation includes maintenance, the Board of Control shall fix the value of that part of the compensation not paid in money. Earnable compensation shall not exceed the limitations imposed by Section 401(a)(17) of the Internal Revenue Code for public pension funds, except that any employee who was a member of the Employees' Retirement System before the first plan year beginning after December 31, 1995, shall not be subject to the earning limitations set forth in Section 401(a)(17). For Tier II plan members, earnable compensation shall include overtime payments that are made to the member but shall not include subsistence payments that are made to the member and shall not exceed one hundred twenty-five percent (125%) of the member's annual base compensation, as certified by the employer.

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

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

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

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

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

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

"(21) PENSION RESERVE. The present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of the mortality tables adopted by the Board of Control and regular interest.
"(22) ACTUARIAL EQUIVALENT. A benefit of equal value when computed upon the basis of the mortality tables adopted by the Board of Control and regular interest.

"(23) STATE POLICEMAN. An employee in the classified service under the Merit System Act approved by the State Personnel Board to perform the duties of highway patrolman or a beverage control agent or a crime investigator. The term shall not include a member employed as a policeman under Section 36-27-6.

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

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

"(26) TIER I PLAN MEMBER. Any member of the Retirement System who had service for which he or she received credit in the Employees' Retirement System or in the Teachers' Retirement System prior to the effective date of this act.

"(27) TIER II PLAN MEMBER. Any member of the Retirement System who first began eligible employment with an Employees' Retirement System or a Teachers' Retirement System participating employer on or after the effective date of this act and who had no eligible service in the Employees' Retirement System or the Teachers' Retirement System prior to the effective date of this act.

"§36-27-4.

"(a) The membership of the retirement system shall be composed as follows:
"(1) All persons who shall become employees after October 1, 1945, shall become members of the retirement system as a condition of their employment.

"(2) Any person who is an employee on October 1, 1945, shall become a member as of that date unless, within a period of 90 days next following, such employee shall file with the Board of Control on a form prescribed by the board a notice of his election not to be covered in the membership of the system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his membership in the retirement system.

"(3) An employee whose membership in the retirement system is contingent on his own election and who elects not to become a member may thereafter apply for and be admitted to membership with all prior service credit as otherwise provided for in this article by applying for such membership at any time prior to July 1, 1962; provided, that said employee pays to the treasurer of the said retirement system on or before July 1, 1962, a sum equal to the total contributions which he would have made as a member during the period of his service as an employee from October 1, 1945, to the date of his application for membership. Any member or retired employee who at one time worked as a nonmember may now receive credit for prior service and for the years worked as a nonmember; provided, that said member or retired employee pays to the treasurer of the retirement system on or before July 1, 1962, a sum equal to the total contributions which he would have
made as a member during the period of his employment from
October 1, 1945, to the date he became a member.

"(4) All county engineers of the several counties of
the state in whose salaries the State Department of
Transportation participates, except county engineers who are
already members of this retirement system under provisions of
this article or who are covered under the provisions of a
county retirement system supported by funds of the employing
county. The effective date for the inclusion of county
ingeniers in the system shall be October 1, 1964. Membership
in the retirement system shall be optional for county
ingeniers employed on the date participation becomes
effective, and any county engineer who elects to enroll in the
retirement system within one year thereafter may be admitted
to membership with all prior service credit and all membership
service credit; provided, that said county engineer pays to
the treasurer of the retirement system at the time he enrolls
a sum equal to the total employee contributions and interest
he would have had to his credit had he been a member during
the period of his service as county engineer from October 1,
1945, to the date of his application for membership. Should a
county engineer employed on the date participation becomes
effective elect to enroll as a member without paying such
prior membership contributions and interest, he may become a
member without credit for service prior to date of his
enrollment. Membership shall be compulsory for all county
geniers who are eligible for such membership upon entering
service as a county engineer after the date participation
becomes effective to the extent of the State Department of
Transportation's participation in his salary.

"(b) The Board of Control may, in its discretion,
deny the right to become members to any class of employees
whose compensation is only partly paid by the state, except as
provided in this article.

"(c) Should any member in any period of six
consecutive years after becoming a member be absent from
service more than five years or withdraw his contributions, as
provided in subdivision (1) of subsection (c) of Section
36-27-16, or retire or die, he shall thereupon cease to be a
member.

"(d) A member in service on January 1, 1976, who has
honorable duty consisting of active full-time military service
in the armed forces of the United States, exclusive of any
summer or weekend service in a reserve or national guard
component of any branch of the armed forces, and who has not
received credit toward retirement status in the Employees'
Retirement System of Alabama for said military service, may be
granted by the Board of Control membership service credit for
the period of such service in the armed forces; provided, that
such member pays into the Employees' Retirement System, in a
lump sum prior to October 1, 1976, an amount equal to four
percent of the average compensation paid to a state employee
during each claimed year of full-time military service, plus
and together therewith eight percent interest compounded from
the last date of such claimed military service; and provided
further, that such a member shall not receive membership
service credit for more than four years of military service,
and shall receive no credit for military service if such
member is receiving military service retirement benefits,
other than disability allowances or benefits, from any branch
of the United States armed forces, or by reason of any such
service in any branch of the armed forces, or, if such member
received anything other than an honorable discharge for and
including the claimed military service. Anything in this
article to the contrary notwithstanding, if any person
becoming a member of the Employees' Retirement System after
January 1, 1976, shall have honorable duty consisting of
active full-time military service in the armed forces of the
United States, exclusive of any summer or weekend service in a
reserve or national guard component of any branch of the armed
forces, such member may be granted by the Board of Control
membership service credit for such period of service in the
armed forces; provided, that such member pays into the
Employees' Retirement System, in a lump sum within one year
next after the first day of the pay period in which the first
deduction to the Employees' Retirement System is made after
having been honorably discharged from the armed forces, an
amount equal to four percent of the average compensation paid
to a state employee during each claimed year of full-time
military service, plus and together therewith eight percent
interest compounded from the last date of such claimed
military service; and provided further, that no member shall receive more than four years' membership service credit for military service, and no credit for military service shall be granted if such member is receiving military service retirement benefits, other than disability allowances or benefits, from any branch of the United States armed forces, or by reason of any service in any branch of the armed forces, or, if such member received anything other than an honorable discharge for and including the claimed military service.

"(e) No benefit under the retirement system other than the return of contributions as provided in subdivision (1) of subsection (c) of Section 36-27-16 shall become payable to or on account of any member while he is not in service as an employee, unless the member withdraws from service after reaching age 60 for a Tier I plan member or age 62 for a Tier II plan member, or, in the case of a state policeman, after reaching age 56. Anything in this article to the contrary notwithstanding, any member who has completed 15 years of creditable service or who has completed 10 years of creditable service and has attained age 55 at the time of his withdrawal from service shall be eligible to continue in the membership of the system until he files application for service retirement in accordance with the provisions of subsection (a) of Section 36-27-16.

"(f) Any member, who retired prior to January 1, 1976, who has service in the armed forces, as described in this section, shall be entitled to claim such full-time
military service; provided, that such retired member pays into the Employees' Retirement System, in a lump sum prior to October 1, 1976, an amount equal to four percent of the average compensation paid to a state employee during such claimed year of full-time military service, plus and together therewith eight percent compounded from the last date of such claimed military service; and provided further, that such retired member shall not receive membership service credit for more than four years of military service, and shall receive no credit for military service, if such member is receiving military service retirement benefits, other than disability allowance or benefits, from any branch of the armed forces, or by reason of any such service in any branch of the armed forces. The provisions of this subsection shall be retroactive to October 1, 1975.

"(g) All retirement allowance payments due on or after January 1, 1976, to members of the Employees' Retirement System of Alabama who retired prior to said date and who have complied with the provisions of this section shall be redetermined as if the provisions of this section were in effect at the time they retired; provided, that any increase in the retirement allowance payment for a member who, prior to October 1, 1975, retired under the provisions of any optional benefit elected pursuant to Acts 1945, No. 515, as amended, 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.

"§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 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 of for
service retirement upon attaining age 52 and a Tier II plan
member employed as a state policeman 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, 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 desires to be retired; provided, said member shall have at
the time of his 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 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 said
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 accumulated contributions at the time of his
retirement; except, that in the case of a state policeman who has completed 20 years of creditable service as a state policeman who retires after age 56 but prior to age 60, the annuity shall be equal to the annuity that would have been payable upon service retirement at age 60 had the member continued in service to said age 60 without change in compensation;

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

"3. An additional pension, if he 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 age 65 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder; except, that in case of a state policeman who has completed 20 years of creditable service as a state policeman who retired after age 56 but prior to age 60, an additional pension, if he has a prior service certificate in full force
and effect, which shall be equal to 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 would have made during the period of prior service with
which he is credited had the system been in operation and had
he 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 would have received had he contributed for four years
without change in compensation; and

"3. An additional pension, if he 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 would have made during the period of
prior service with which he is credited had the system been in
operation and had he 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 annuity, is equal to the greater of the following two amounts:

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

"2. If he became a member before October 1, 1965, $72.00 multiplied by the number of years of his 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 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 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 became a member before October 1, 1965,
$86.40 multiplied by the number of years of his 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, said pension shall be determined as provided in
this subparagraph on the basis of the number of years of
creditable service which he would have had if he 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 said pension shall not exceed the number
of years of creditable service which he would have had if he
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 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 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 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 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 current employer under the United States Social Security Act, who as a result of his employment, in the line of duty and not as a result of his own misconduct, shall become permanently and totally disabled to the extent that he cannot perform his 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 is a Tier I plan
member and he has attained age 60 or if he is a Tier II plan member and he 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 is a Tier I plan member and he has attained age 52 or he is a Tier II plan member and he has attained age 56; otherwise, he shall receive a disability retirement allowance which shall consist of:

"1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his 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 said 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 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 became a member before October 1, 1965, $54.00 multiplied by the number of years of his 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 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 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 became a member before October 1, 1965, $64.80 multiplied by the number of years of his 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 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 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 allowance
may be discontinued until his withdrawal of such refusal, and,
should his refusal continue for one year, all his rights in
and to his 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 is a
Tier I plan member or who has attained age 56 if he 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
retirement allowance and his average final compensation and
should the Board of Control concur in such report, then the
amount of his pension shall be reduced to an amount which,
together with his annuity and the amount earnable by him shall
equal the amount of his average final compensation. Should his
earning capacity be later changed, the amount of his 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 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 individual account in the Annuity Savings Fund shall be paid to him upon demand and, in addition to such payment, there shall be paid five-tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six-tenths of such interest accumulations if he shall have not less than 16 but less than 21 years of membership service, seven-tenths of such interest accumulations if he shall have not less than 21 but less than 26 years of membership service and eight-tenths of such interest accumulations if he 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 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 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
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 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 estate or to such person as he 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 retirement allowance payable throughout life, the actuarial equivalent, at that time, of his retirement allowance in a reduced retirement allowance payable throughout life with the provisions that:

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

"(2) OPTION 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his retirement;
"(3) OPTION 3. Upon his death, one half of his reduced allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his retirement; or

"(4) OPTION 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he 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 retirement allowance and shall be approved by the Board of Control.

"(e) Effect of return to active service. Should any beneficiary be restored to active service, his retirement allowance shall be suspended until he again withdraws from service and he shall not again become a member of the retirement system nor shall he 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 reentry into active service, he may request the Board of Control to allow him 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 as benefits during any periods subsequent to the date of his reentry into active service and shall make a contribution
equal to the amount he would have contributed had he been a
member during the period of his restoration to active service
on a suspended on 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 said 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 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 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 retirement allowance, which became effective on said date, be ascribed to his designated beneficiary; provided, that such member shall clearly express this intention by filing a written application to said 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 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 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 monthly retirement allowance payments arising in accordance with subdivisions (1) or (2) of this subsection over the monthly allowance which he 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
credit, including regular interest to the date of death, shall
be paid in a lump sum to his legal representatives or to such
person as he 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.


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

"(b) Annuity Savings Fund. The Annuity Savings Fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their annuities.

"Contributions to and payments from the Annuity Savings Fund shall be made as follows: Effective October 1, 1971, each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period five percent of his or her
earnable compensation; except, that in the case of a state policeman, the rate of 10 percent of earnable compensation shall apply, and in computing all retirement benefits it shall be assumed that a seven percent rate of contribution had applied with respect to service as a state policeman prior to July 1, 1957. For all pay dates beginning on or after October 1, 2011, each employer, except those employers participating pursuant to Section 36-27-6, shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period seven and one-quarter percent (7.25%) of his or her earnable compensation; except, that in the case of a state policeman, the rate of ten percent (10%) of earnable compensation shall apply. For all pay dates beginning on or after October 1, 2012, each employer, except those employers participating pursuant to Section 36-27-6, shall cause to be deducted from the salary of each Tier I plan member on each and every payroll of such employer for each and every payroll period seven and one-half percent (7.5%) of his or her earnable compensation; except, that in the case of a state policeman, the rate of ten percent (10%) of earnable compensation shall apply. For all pay dates beginning on or after the effective date of this act, each employer shall cause to be deducted from the salary of each Tier II plan member on each and every payroll period six percent (6%) of his or her earnable compensation; except that in the case of a state policeman, the rate of ten percent (10%) shall apply. Any employer
participating under Section 36-27-6, by adoption of a resolution, may elect for the increases in employee contributions provided by Act 2011-676 to be withheld from the earnable compensation of employees of the employer. In determining the amount earnable by a member in a payroll period, the Board of Control may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing through such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and, to facilitate the making of deductions, it may modify the deductions required of any member by such an amount as shall not exceed one tenth of one percent of the annual compensation upon the basis of which such deductions are made.

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

"In addition to the contributions deducted from
compensation as provided in this subsection, subject to the
approval of the Board of Control, any member may deposit in
the Annuity Savings Fund by a single payment or by an
increased rate of contribution an amount computed to be
sufficient to purchase an additional annuity which, together
with his or her prospective retirement allowance, will provide
for him or her a total retirement allowance not to exceed one
half of his or her average final compensation at age 60. Such
additional amounts so deposited shall become a part of his or
her accumulated contributions, except in the case of
retirement, when they shall be treated as excess contributions
returnable to the member in cash or as an annuity of
equivalent actuarial value and shall not be considered in
computing his or her pension.

"The contributions and interest credits of a member
withdrawn by him or her or paid to his or her estate or to his
or her designated beneficiary in event of his or her death
shall be paid from the Annuity Savings Fund. Should a member
cease to be a member other than by retirement under the
provisions of this article, an amount equivalent to the
difference, if any, between his or her accumulated contributions and the amount then paid shall be transferred to the Expense Fund. Upon the retirement of a member or the death of an eligible member where an allowance to a surviving spouse or other designated beneficiary is payable, his or her accumulated contributions shall be transferred from the Annuity Savings Fund to the Pension Accumulation Fund.

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

"The State Personnel Board, with the approval of the Governor, may provide that the state shall pick up member contributions to the Employees' Retirement System of Alabama as required by this subsection on behalf of all state employees who participate in the Employees' Retirement System by a corresponding reduction in the salary of the member, such pick-up to be mandatory for all such employees, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code. These contributions shall be paid from the same source of funds which is used in paying earnings to the employee. If employee contributions are so picked up they shall be treated for all other purposes of state law in the same manner and to the same extent as employee contributions made prior to the date picked up.

"(c) Pension Accumulation Fund. The Pension Accumulation Fund shall be the fund in which shall be
accumulated all reserves other than the amounts held in the Annuity Savings Fund for the payment of all pensions, all allowances granted to surviving spouses or other designated beneficiaries and other benefits payable from contributions made by the employer and from which shall be paid all pensions, all allowances granted to surviving spouses or other designated beneficiaries and other benefits on account of members with prior service credit.

"Contributions to and payments from the Pension Accumulation Fund shall be made as follows: On account of each member there shall be paid monthly by the employer an amount equal to a certain percentage of the earnable compensation of each member to be known as the "normal contribution" and an additional amount equal to a percentage of his or her earnable compensation to be known as the "accrued liability contribution," and these two amounts shall be paid monthly into the Pension Accumulation Fund; provided, that in the case of a state policeman, such percentage rates of contributions shall be calculated separately. The percentage rate of such contributions shall be fixed for each fiscal year on the basis of the liabilities of the retirement system as shown by the last annual actuarial valuation, and such percentage rate as established by such valuation shall take effect the following October 1 and continue in effect for the fiscal year.

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

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

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

"For purposes of computing the unfunded accrued liability the assets shall be determined as follows:

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

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

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

"Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) and (3) of subsection (c) of Section 36-27-16, the death benefit as provided in subdivision (4) of subsection (c) of Section 36-27-16 equal to the accumulated contributions, not to exceed $5,000.00, shall be payable from the Pension Accumulation Fund.

"(d) Expense Fund. The Expense Fund shall be the fund from which the expenses of the administration of the retirement system shall be paid, exclusive of amounts payable
as retirement allowances and as other benefits provided in this chapter. In addition thereto and on account of each member of the retirement system, there shall be paid monthly by the employer an amount equal to a certain percentage of the earnable compensation of each member for the administrative expenses of the retirement system. The percentage rate of such contribution shall be fixed by the Board of Control on the basis of the cost exclusive of that provided by interest not returnable. Any amounts credited to the accounts of the members withdrawing before retirement and not returnable under the provisions of subsection (c) of Section 36-27-16 shall be credited to the Expense Fund.

"(e) Employer's contributions. For each biennium beginning October 1, 1965, each employer shall pay to the retirement system the rates provided in this section and thereafter, at least 30 days preceding October 1 of each fiscal year, the Board of Control shall certify to the chief fiscal officer of each employer the percentage rates of earnable compensation of the members required to be paid to the retirement system in accordance with subsections (c) and (d) of this section.

"The employer's contribution on account of the membership of employees whose salaries are paid in whole or in part from funds derived from federal grants shall be paid from funds derived from the federal grants in accordance with statutes governing the administration of the grants and in proportion to salaries paid therefrom. At such time and in
such manner as may be required, the Board of Control shall
certify to each department of state receiving a federal grant
the amount due and payable from the grant as the employer's
contribution to the retirement system on account of the
membership of the department whose salaries are paid in whole
or in part from funds derived from such federal grants. The
fiscal agent of the department shall authorize the state
Comptroller to draw a warrant or warrants in payment of the
amount certified as due and payable from federal grants.

"(f) Appropriations. There is hereby appropriated
annually from the fund from which salaries of the employees of
each employer are paid the amounts sufficient to carry out the
provisions of this section. In the case of those departments
supported wholly by transfers from other state funds, there is
hereby appropriated from the supporting funds such additional
amounts as may be necessary to pay the employer contribution
of each department so supported in the same proportion as the
other state funds contribute to the support and maintenance of
such department.

"(g) Employer cost provided for in this article
together with member contributions required under this article
shall be paid to the Employees' Retirement System on the first
day of the month following the month in which the related
member salary is earned. Delinquent accounts shall accrue
interest at the actuarial assumed investment rate beginning 30
days after the original due date. The member contributions for
each member shall be reported to the Employees' Retirement
§36-27-59.

(a) When used in this section, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

"(1) CORRECTIONAL OFFICER. A full-time correctional officer who is certified as a correctional officer by the Alabama Peace Officers' Standards and Training Commission.

"(2) FIREFIGHTER. A full-time firefighter employed with the State of Alabama, a municipal fire department, or a fire district who has a level one minimum standard certification by the Firefighters Personnel Standards and Education Commission, or a firefighter employed by the Alabama Forestry Commission who has been certified by the State Forester as having met the wild land firefighter training standard of the National Wildfire Coordinating Group.

"(3) LAW ENFORCEMENT OFFICER. A full-time law enforcement officer, not covered as a state policeman, employed with any state agency, department, board, commission, or institution or a full-time law enforcement officer employed by a local unit of the Employees' Retirement System under Section 36-27-6 who is certified as a law enforcement officer by the Alabama Peace Officers' Standards and Training Commission.

"(b)(1) Any firefighter, law enforcement officer, or correctional officer covered under the Employees' Retirement
System or the Teachers' Retirement System as a Tier I plan member, upon attainment of the requisite years of creditable service or who otherwise qualifies for service or disability retirement, shall be awarded one year of hazardous duty time for every five years of service as a firefighter, a law enforcement officer, or a correctional officer provided that the person has made the additional contribution provided in subdivision (2) or paid the additional contribution required in subsection (c) for each year of service used in determining hazardous duty time for the person. Proportional credit shall be awarded for any period of service less than five years.

"(2) Effective January 1, 2001, and each pay period thereafter, each active employee who is a firefighter, law enforcement officer, or correctional officer, as defined in subsection (a), shall contribute to the Teachers' or Employees' Retirement System of Alabama six percent of his or her earnable compensation. For all pay dates beginning on or after October 1, 2011, each active employee who is a firefighter, law enforcement officer, or correctional officer, as defined in subsection (a), except those employees participating pursuant to Section 36-27-6, shall contribute to the Teachers' or Employees' Retirement System of Alabama eight and one-quarter percent (8.25%) of his or her earnable compensation. For all pay dates beginning on or after October 1, 2012, each active employee who is a Tier I plan member and who is a firefighter, law enforcement officer, or correctional officer, as defined in subsection (a), except those employees
participating pursuant to Section 36-27-6, shall contribute to the Teachers' or Employees' Retirement System of Alabama eight and one-half percent (8.5%) of his or her earnable compensation. Any employer participating under Section 36-27-6, by adoption of a resolution, may elect for the increases in employee contributions provided by Act 2011-676 to be withheld from the earnable compensation of employees of the employer.

"(c) Any member of the Employees' Retirement System or the Teachers' Retirement System eligible under subsection (b) may receive credit for his or her eligible prior service provided the member pays to the Secretary-Treasurer of the Employees' Retirement System or the Secretary-Treasurer of the Teachers' Retirement System one percent of his or her current annual earnable compensation or previous year's annual earnable compensation, whichever is higher, for each year of claimed credit within two years of January 1, 2001, except that any firefighter employed by the Alabama Forestry Commission shall make such payment within two years of December 28, 2001. Any member participating in the Employees' Retirement System under Section 36-27-6, who has eligible prior service under this section and who also had no prior eligibility to purchase prior service credit under this subsection, may purchase prior service credit under this section at the same rate provided in subsection (b) within one year of the effective date of his or her enrollment with the Employees' Retirement System or within one year of August 1,
2004. The member may purchase his or her claimed credit in
increments of five years, unless the total service credit is
less than five years, in which case the service shall be
purchased in its entirety. The member shall provide
certification from each employing agency, on forms prescribed
by the Teachers' or Employees' Retirement System, of each year
of claimed service, as a prerequisite to payment under this
section.

"(d) The provisions of this section shall not apply
to any Tier II plan member."

Section 2. The provisions of this act are severable.
If any part of this act is declared invalid or
unconstitutional, that declaration shall not affect the part
which remains

Section 3. All laws or parts of laws which conflict
with this act are repealed.

Section 4. This act shall become effective January
1, 2013, following its passage and approval by the Governor or
its otherwise becoming a law.