

Senate Bill 152

By: Senators Hill of the 6th, Millar of the 40th and Thompson of the 5th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and
2 pensions, so as to provide for the transfer of membership between the Employees' Retirement
3 System of Georgia and the Teachers Retirement System of Georgia; to provide for the
4 calculation of credits; to provide for retirement provisions applicable to persons who first or
5 again become members of the Teachers Retirement System of Georgia on or after January
6 1, 2017; to provide a short title; to provide for a service retirement allowance; to provide for
7 employee and employer contributions; to provide for an option of coverage for current
8 members; to provide for a calculation of benefits; to provide for applicability to certain
9 provisions; to provide that only membership service shall constitute creditable service except
10 in certain circumstances; to provide for the calculation of disability and death benefits; to
11 provide for the examination and reexamination of disability beneficiaries; to create a defined
12 contribution plan available to such members; to define certain terms; to provide for vesting;
13 to provide for forfeiture; to provide for administration; to provide for related matters; to
14 provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and
15 for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 style="text-align:center">**SECTION 1.**

18 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
19 amended by revising subsection (d) of Code Section 47-2-181, relating to transfer of service
20 credits and accumulated contributions from the Teachers Retirement System of Georgia to
21 the Employees' Retirement System of Georgia and transfer of funds, as follows:

22 "(d)(1) At the time the membership of a person not subject to Article 9 of Chapter 3 of
23 this title is transferred from the Teachers Retirement System of Georgia to this retirement
24 system subject to Article 10 of this chapter, this retirement system shall receive the funds
25 transferred from the Teachers Retirement System of Georgia pursuant to Code Section
26 47-3-81 and, as applicable, add the accrued benefit transferred from the Teachers
27 Retirement System of Georgia to the accrued benefit or the balance of employee

28 contributions and interest. The total benefits of any such member shall be subject to the
29 rules of this retirement system.

30 (2) At the time the membership of a person subject to Article 10 of this chapter transfers
31 to the Teachers Retirement System of Georgia subject to Article 9 of Chapter 3 of this
32 title, this retirement system shall:

33 (A) Calculate the accumulated benefit using the service and compensation at the time
34 of the transfer;

35 (B) Calculate the present value of the accrued benefit using methods and assumptions
36 adopted by the board of trustees; and

37 (C) Transfer to the Teachers Retirement System of Georgia the greater of the present
38 value of the accumulated benefit or the balance of the employee contributions and
39 interest.

40 (3) All service transferred pursuant to this subsection shall be calculated as credit in this
41 retirement system for all purposes in this retirement system.

42 (4) This retirement system and the Teachers Retirement System of Georgia shall
43 recalculate the accumulated benefit of any person transferred between such retirement
44 systems from January 1, 2009, through June 30, 2012, according to the methods
45 prescribed by this subsection.

46 (5) Any person subject to Article 9 of Chapter 3 of this title who transfers membership
47 to this retirement system subject to Article 10 of this chapter shall be governed by the
48 provisions of subsection (a) of this Code section."

49 **SECTION 2.**

50 Said title is further amended by revising subsection (c) of Code Section 47-3-81, relating to
51 transfer of service credits from the Employees' Retirement System of Georgia to the Teachers
52 Retirement System of Georgia, limitations, and additional contributions or adjustments
53 required, as follows:

54 "(c)(1) At the time the membership of a person subject to Article 10 of Chapter 2 of this
55 title is transferred from the Employees' Retirement System of Georgia to this retirement
56 system, but such member is not, after such transfer, subject to Article 9 of this chapter,
57 this retirement system shall receive the funds transferred from the Employees' Retirement
58 System of Georgia pursuant to Code Section 47-2-181 and, as applicable, add the accrued
59 benefit transferred from the Employees' Retirement System of Georgia to the accrued
60 benefit or the balance of employee contributions and interest. The total benefits of any
61 such member shall be subject to the rules of this retirement system.

62 (2) At the time the membership of a member of this retirement system who is not subject
 63 to Article 9 of this chapter transfers to the Employees' Retirement System of Georgia and
 64 is subject to Article 10 of Chapter 2 of this title, this retirement system shall:

65 (A) Calculate the accumulated benefit using the service and compensation at the time
 66 of the transfer;

67 (B) Calculate the present value of the accrued benefit using methods and assumptions
 68 adopted by the board of trustees; and

69 (C) Transfer to the Employees' Retirement System of Georgia the greater of the present
 70 value of the accumulated benefit or the balance of the employee contributions and
 71 interest.

72 (3) All service transferred pursuant to this subsection shall be calculated as credit in this
 73 retirement system for all purposes in this retirement system.

74 (4) This retirement system and the Employees' Retirement System of Georgia shall
 75 recalculate the accumulated benefit of any person transferred between such retirement
 76 systems from January 1, 2009, through June 30, 2012, according to the methods
 77 prescribed by this subsection.

78 (5) Any person subject to Article 10 of Chapter 2 of this title who transfers membership
 79 to this retirement system subject to Article 9 of this chapter shall be governed by the
 80 provisions of subsection (a) of this Code section."

81 **SECTION 3.**

82 Said title is further amended in Chapter 3 by adding a new article to read as follows:

83 "ARTICLE 9

84 47-3-150.

85 This article shall be known and may be cited as the 'Georgia Teachers Pension and Savings
 86 Plan.'

87 47-3-151.

88 (a) Except where indicated clearly to the contrary by the context, the term 'member' as
 89 used in this article shall mean any employee who first or again becomes a member of the
 90 Teachers Retirement System of Georgia on or after January 1, 2017. From and after
 91 January 1, 2017, every person first or again becoming an employee entitled to a new
 92 membership in the Teachers Retirement System of Georgia shall become a member subject
 93 to this article.

94 (b) Membership under this article shall be optional for any persons who are within the
95 membership of the Teachers Retirement System of Georgia on December 31, 2016. Any
96 such persons may elect in writing on a form to be provided by the board of trustees to
97 become a member subject to this article at any time on or after January 1, 2017. This
98 written election shall become effective upon the approval of the application by the board
99 of trustees as provided in rules and regulations promulgated by the board of trustees and
100 shall be final and cannot be later changed or rescinded. Upon such election, a member
101 shall be subject to all the provisions, terms, and conditions of this article; provided,
102 however, that the calculation to determine retirement allowances for any person exercising
103 such option shall be made as follows:

104 (1) The retirement allowance shall be computed fully as if all creditable service of the
105 member were acquired and calculated under the provisions of this article;

106 (2) Then the retirement allowance shall also be computed fully as if all creditable service
107 of the member were acquired and calculated under the provisions of this chapter
108 contained other than in this article and the rules and regulations of the board of trustees;

109 (3) Then a benefit amount shall be determined based upon a fractional part of each
110 retirement allowance computed in paragraphs (1) and (2) of this subsection, which
111 fractional part shall be computed by using the actual years of creditable service
112 established under either this article, for paragraph (1) of this subsection, or the provisions
113 of this chapter contained other than in this article, for paragraph (2) of this subsection,
114 which number of years shall be the numerator of the fraction, over the total actual years
115 of creditable service established under both this article and the provisions of this chapter
116 contained other than in this article, which number shall be the denominator of the
117 fraction;

118 (4) The two benefit amounts so determined shall then be added together to produce the
119 actual retirement allowance; and

120 (5) Projected years of service shall not be used in the computation of the retirement
121 allowances under this subsection.

122 47-3-152.

123 (a) Every member subject to this article shall contribute employee membership
124 contributions in an amount equal to the amount established by the board of trustees for all
125 members pursuant to Code Section 47-3-41, which shall be deducted by each employer
126 from the earnable compensation of each member for each and every payroll period and
127 paid monthly to the board of trustees. Such amount shall be credited to the individual
128 accounts of the members in the annuity savings fund.

129 (b) From and after January 1, 2017, each employer shall pay monthly to the board of
130 trustees, on behalf of each member subject to this article, the aggregate of employer and
131 employee contributions required by this chapter. With respect to members subject to this
132 article, no employer contributions shall be considered as accumulated contributions of the
133 member and none shall be eligible for withdrawal by the member upon cessation of service.
134 Such amount shall be credited to the pension accumulation fund.

135 47-3-153.

136 (a) Every member subject to this article shall, upon becoming eligible under the provisions
137 of this chapter, be entitled to a service retirement allowance, which shall consist of:

138 (1) An annuity which shall be the actuarial equivalent of the member's accumulated
139 contributions at the time of retirement; and

140 (2) A monthly pension which, together with the annuity, shall provide a total retirement
141 allowance equal to 1 percent, or such future amount up to 2 percent to be set by the board
142 of trustees in direct relation to any increased appropriations provided by the General
143 Assembly expressly for such increase, of the member's highest average monthly earnable
144 compensation during a period of 24 consecutive calendar months while a member of the
145 retirement system, multiplied by the number of the member's years of creditable service;
146 provided, however, that for members employed on or after July 1, 2017, no salary
147 increase by adjustment in compensation in any manner during the last 12 months, which
148 increase is in excess of 5 percent, shall be included in such computation.

149 (b) No retired member shall be entitled to or have an expectation of a postretirement
150 benefit adjustment. Such cost-of-living adjustments may be made as provided in
151 accordance with Code Section 47-3-126; provided, however, that no such adjustments shall
152 be considered to have been prefunded.

153 47-3-154.

154 (a) Members subject to this article shall be subject to the following conditions:

155 (1) Code Sections 47-3-120 and 47-3-123 shall be applicable to members subject to this
156 article; provided, however, that any benefits shall be calculated as provided in Code
157 Section 47-3-153;

158 (2) Except as provided in Article 5 of Chapter 1 of this title and the provisions of Public
159 Law 103-353, the federal Uniformed Services and Employment and Reemployment
160 Rights Act, no service shall constitute creditable service except membership service for
161 which the full rate of employee membership contributions and employer contributions
162 is made pursuant to Code Section 47-3-152. The provisions of this paragraph shall not

163 affect the transfer of creditable service between public retirement systems created by this
164 title under such conditions as are now or may hereafter be provided by law;

165 (3) The provisions of Code Section 47-3-92 shall be applicable to members subject to
166 this article; provided, however, that such benefits shall be subject to reduction or repeal
167 by subsequent legislation and shall not be considered an element of any contract of
168 employment; and

169 (4) Disability benefits shall be calculated as provided in paragraph (2) of subsection (c)
170 of Code Section 47-3-122.

171 (b) All members subject to this article shall have and be subject to all other rights,
172 privileges, obligations, and duties specified by other provisions of this chapter, and all such
173 other provisions shall be of full force and effect with respect to any matter not specifically
174 provided for in this article.

175 47-3-155.

176 (a) Any member who is in service or on authorized leave may retire on disability upon
177 written application to the board of trustees if the member has at least ten years of creditable
178 service at the time of retirement and if the member's application for disability retirement
179 is approved by the medical board. The medical board shall approve the application if, after
180 a medical examination of such member by a qualified physician appointed by the board of
181 trustees, it finds that the applicant is mentally or physically incapacitated for further
182 performance of duty involving active membership with the retirement system, that such
183 incapacity is likely to be permanent, and that the applicant should be retired. The effective
184 date of retirement will be the first of the month in which the application is received by the
185 board of trustees, provided that no retirement application will be effective earlier than the
186 first of the month following the final month of the applicant's employment. Applications
187 for retirement will not be accepted more than 90 days in advance of the effective date of
188 retirement.

189 (b) Once each year during the first five years following retirement of a member on a
190 disability retirement allowance and once in every three-year period thereafter, the board
191 of trustees may require a disability beneficiary who has not yet attained age 60 to undergo
192 a medical examination, such examination to be made at his or her place of residence or
193 other place mutually agreed upon, by a physician or physicians designated by the medical
194 board. Such beneficiary may himself or herself request such an examination. If any
195 disability beneficiary who has not yet attained age 60 refuses to submit to such medical
196 examination, his or her pension may be discontinued by the board of trustees until his or
197 her withdrawal of such refusal; and if his or her refusal continues for one year, all his or
198 her rights in and to his or her pension may be revoked by the board of trustees.

199 (c) If it is determined that a disability beneficiary is engaged in a gainful occupation or if
 200 the medical board reports and certifies to the board of trustees that a disability beneficiary
 201 is able to engage in a gainful occupation paying more than the difference between his or
 202 her disability retirement benefit and the current rate of compensation for the position which
 203 he or she held at the time of his or her disability retirement, the board of trustees may
 204 reduce his or her retirement benefit to an amount at which his or her total retirement benefit
 205 together with the amount earnable by him or her equals the current rate of compensation
 206 for the position which he or she held at the time of his or her disability retirement, as
 207 determined by the board of trustees. The board of trustees may make further changes in
 208 his or her disability benefit in response to further change in his or her earning capacity,
 209 provided that the new pension shall not cause the total of his or her disability retirement
 210 benefit together with the amount earnable by him or her to exceed the current rate of
 211 compensation, as determined by the board of trustees, for the position which he or she held
 212 at the time of his or her disability retirement.

213 47-3-156.

214 (a) Upon death of any member in service, the beneficiary nominated by the member by
 215 means of a written designation duly executed and filed with the board of trustees shall be
 216 entitled to:

217 (1) A cash refund of the member's contributions and interest accumulated at the date of
 218 the member's death;

219 (2) A monthly benefit computed in the same manner as though the member had retired
 220 as of the date of death on either a service retirement allowance as provided for in Code
 221 Section 47-3-120 or a disability retirement allowance as provided for in Code Section
 222 47-3-122 and elected option two, whichever calculation produces the larger benefit; or

223 (3) A choice of electing the benefits under either paragraph (1) or (2) of this subsection.

224 The benefit to which the beneficiary is entitled shall depend on the beneficiary designation
 225 form on file with the retirement system and the deceased member's creditable service. In
 226 order for a beneficiary to be eligible for a monthly death benefit under paragraph (2) or (3)
 227 of this subsection, the deceased member must have had a minimum of ten years of
 228 creditable service at the time of death. The nearest year of the attained ages of both the
 229 member and the beneficiary at the time of the member's death will be used in the
 230 application of appropriate actuarial tables and in determining the monthly benefits of the
 231 beneficiary. A monthly death benefit shall commence the first day of the month following
 232 the month in which the member's death occurred.

233 (b) Upon the death of a member in service who has not named a beneficiary on a
 234 beneficiary designation form filed with the retirement system and who has:

235 (1) Less than ten years of creditable service, then the death benefit shall consist of a
 236 refund to his or her surviving spouse of the member's accumulated contributions and, if
 237 there is no surviving spouse, to the deceased member's estate;

238 (2) Ten or more years of creditable service and no surviving spouse, then the death
 239 benefit shall consist of a refund to his or her estate of the member's accumulated
 240 contributions; or

241 (3) Ten or more years of creditable service and a surviving spouse, then the death
 242 benefit, at the option of the surviving spouse, shall consist of a refund to the surviving
 243 spouse of the member's accumulated contributions or the payment to the surviving spouse
 244 of the monthly benefit under paragraph (2) of subsection (a) of this Code section in
 245 accordance with the amount of creditable service of the deceased member.

246 (c) Upon the death of a member in service with more than ten years of creditable service
 247 and then thereafter the death of the beneficiary nominated by the member by means of a
 248 written designation duly executed and filed with the board of trustees, or where no
 249 beneficiary was so designated by the member and the member was survived by the
 250 member's spouse, the death of the member's spouse, in the event that the designated
 251 beneficiary of the member chose to receive a monthly benefit pursuant to paragraph (2) of
 252 subsection (a) of this Code section and the total monthly benefits paid to such designated
 253 beneficiary prior to his or her death did not equal or exceed the member's accumulated
 254 contributions at the time of the member's death, or where no beneficiary was designated
 255 and the surviving spouse of the member chose to receive monthly benefits pursuant to
 256 paragraph (3) of subsection (b) of this Code section and the monthly benefits paid to the
 257 member's spouse prior to his or her death did not equal or exceed the member's
 258 accumulated contributions at the time of the member's death, the difference shall be
 259 refunded to the person designated in writing by the member to receive such a refund of this
 260 difference. If no such person is designated to receive this difference or if such designated
 261 person has predeceased the member's designated beneficiary or spouse, this difference shall
 262 be paid to the estate of the designated beneficiary or where no person was designated by
 263 the member as beneficiary, to the estate of the member's spouse.

264 47-3-157.

265 (a) As used in this Code section, the term:

266 (1) '401(k)' means the deferred compensation plan offered by the state for public
 267 employees pursuant to Article 3 of Chapter 18 of Title 45 utilizing Section 401(k) of the
 268 federal Internal Revenue Code.

269 (2) 'Plan' means the employee savings plan created by this article.

270 (b) Each member shall, at the time of becoming a member, be automatically enrolled in
 271 the plan; provided, however, that the member shall have a period of 90 days from the date
 272 of enrollment to withdraw from the plan. Such withdrawal shall be made in writing to the
 273 board of trustees in such form as the board prescribes, and any employee account balance
 274 shall be returned to the member. Thereafter, participation in the plan shall be voluntary.
 275 The member may not withdraw from the plan so long as he or she remains eligible to
 276 participate in the 401(k) plan offered by the state.

277 (c) Unless the participating member elects otherwise, the member shall, for each pay
 278 period, contribute 5 percent of his or her compensation into his or her 401(k) account. The
 279 member may change such level of participation at any time.

280 (d) After the participating member has contributed an amount equal to 1 percent of his or
 281 her salary into the 401(k) plan for a pay period, the employer shall contribute an equal
 282 amount into his or her 401(k) account. Thereafter, the employer shall contribute an amount
 283 equal to 50 percent of such amount as the member chooses to contribute for each pay
 284 period, up to an additional 2 percent of the member's compensation. The member may
 285 make such additional contributions as he or she desires, subject to limitations imposed by
 286 federal law.

287 (e) The board of trustees shall apportion the costs of administering the plan among the
 288 employers and members on the basis of the normal costs of administration against any
 289 special services requested by any member.

290 (f) All contributions by participating members are 100 percent vested and shall be
 291 maintained in an account and invested based on the participant's investment allocation
 292 choices. All employer contributed amounts credited to a member's account shall be
 293 maintained as a matching contribution subaccount and invested based on the participant's
 294 investment allocation choices. Any and all amounts credited to a member's matching
 295 contribution subaccount, including applicable earnings and investment appreciation or
 296 depreciation, shall become vested and nonforfeitable based on the number of employment
 297 service years completed and in accordance with the vesting schedule set forth below:

| | <u>Years of Service</u> | <u>Employer Nonforfeitable</u> |
|-----|-------------------------|--------------------------------|
| | | <u>Vested Percentage</u> |
| 300 | <u>1</u> | <u>20</u> |
| 301 | <u>2</u> | <u>40</u> |
| 302 | <u>3</u> | <u>60</u> |
| 303 | <u>4</u> | <u>80</u> |
| 304 | <u>5</u> | <u>100</u> |

305 Upon separation from service for greater than 31 days, the portion of such matching
 306 contribution subaccount not so vested shall be transferred from the member's account into
 307 a temporary plan forfeiture accumulation account for future disposition as determined by
 308 the board of trustees. A break in service less than 32 days shall not affect vesting rights.
 309 (g) Members electing to be governed by the provisions of this article pursuant to
 310 subsection (b) of Code Section 47-3-151 shall use their date of election as the beginning
 311 date for purposes of calculating their vesting service for the employer contribution as
 312 provided in subsection (f) of this Code section used to calculate the vesting requirements
 313 of subsection (f) of this Code section, except that service as provided under Code Section
 314 47-3-92 shall not constitute creditable service for this purpose.

315 47-3-158.

316 This article shall not be construed and is not intended to have any effect whatsoever on
 317 persons within the membership of the Teachers Retirement System of Georgia on
 318 December 31, 2016, who do not elect in writing to become members subject to this article.

319 47-3-159.

320 The provisions of this article shall control over conflicting or inconsistent provisions of this
 321 chapter or any other law of this state. It is the intention of the General Assembly that this
 322 article has not been and may not be repealed, superseded, or modified by implication
 323 through the enactment of any other law or through the amendment of any other provision
 324 of this chapter or any other existing law, and any modification or repeal of any provision
 325 of this article may be accomplished only by reference or amendment to or repeal of this
 326 specific article.

327 47-3-160.

328 The board of trustees shall have the responsibility of administering the provisions of this
 329 article and shall promulgate such rules and regulations as are necessary to carry out the
 330 provisions of this article."

331 **SECTION 4.**

332 This Act shall become effective on July 1, 2016, only if it is determined to have been
 333 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
 334 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
 335 become effective and shall be automatically repealed in its entirety on July 1, 2016, as
 336 required by subsection (a) of Code Section 47-20-50.

337

SECTION 5.

338 All laws and parts of laws in conflict with this Act are repealed.