

House Bill 227

By: Representatives Purcell of the 147th, Birdsong of the 123rd, Walker of the 141st, Shanahan of the 10th, Cummings of the 27th and others

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 create the Georgia Military Pension Fund; to define certain terms; to
3 provide for a board of trustees; to provide for powers and duties of the board; to provide for
4 the administration of the fund; to provide for membership in the fund; to provide for
5 employer contributions; to provide for service creditable toward retirement; to provide for
6 conditions precedent to retirement; to provide for pension benefits; to provide a penalty for
7 certain fraudulent acts; to provide for matters relative to the foregoing; to provide conditions
8 for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
12 amended by adding at the end thereof a new Chapter 24 to read as follows:

13 style="text-align:center">"CHAPTER 24

14 style="text-align:center">ARTICLE 1

15 47-24-1.

16 As used in this chapter, the term:

- 17 (1) 'Board' means the Board of Trustees of the Employees' Retirement System of
18 Georgia.
- 19 (2) 'Creditable service' means prior service, membership service, and other service for
20 which credit is allowed toward retirement under this chapter.
- 21 (3) 'Date of establishment' means July 1, 2002.
- 22 (4) 'Employer' means the State of Georgia.
- 23 (5) 'Fund' means the Georgia Military Pension Fund.
- 24 (6) 'Member' means any person included in the membership of the fund.
- 25 (7) 'Membership service' means service as a member of the fund.

1 (8) 'Prior service' means service rendered prior to July 1, 2002, as a member of the
2 Georgia National Guard.

3 (9) 'Retirement allowance' means monthly payments for life pursuant to Code Section
4 47-24-101.

5 ARTICLE 2

6 47-24-20.

7 (a) A pension fund is created and placed under the administration of the Board of Trustees
8 of the Employees' Retirement System of Georgia to provide retirement allowances and
9 other benefits for members of the Georgia National Guard. The pension fund shall begin
10 operation as of July 1, 2002.

11 (b) The fund shall have the power and privileges of a corporation and shall be known as
12 the Georgia Military Pension Fund. By such name all of its business shall be transacted,
13 all of its funds shall be invested, and all of its cash, securities, and other property shall be
14 held.

15 47-24-21.

16 There is created an office to be known as the executive secretary of the Georgia Military
17 Pension Fund. The director of the Employees' Retirement System of Georgia shall serve
18 as executive secretary of this fund.

19 47-24-22.

20 (a) The general administration and responsibility for the proper operation of the fund and
21 for putting this chapter into effect are vested in the board.

22 (b) The board shall engage such actuarial and other services as shall be required to transact
23 the business of the fund.

24 (c) The board shall designate an actuary who shall be the technical adviser of the board on
25 matters regarding the operation of the fund and shall perform such other duties as are
26 required in connection therewith.

27 (d) At least once in each five-year period following the date of establishment, the actuary
28 shall make an actuarial investigation into the mortality, service, and compensation
29 experience of the members of the fund and shall make a valuation of the contingent assets
30 and liabilities of the fund. The board, after taking into account the results of such
31 investigation and valuation, shall adopt for the fund such mortality, service, and other
32 tables as shall be deemed necessary.

1 (e) On the basis of regular interest and tables adopted by the board, the actuaries shall
2 make valuations of the contingent assets and liabilities of the fund at least once every three
3 years.

4 (f) The board shall keep in convenient form such data as shall be necessary for the
5 actuarial valuations of the contingent assets and liabilities of the fund and for checking the
6 experience of the fund.

7 (g) The board shall determine, from time to time, the rate of regular interest for use in all
8 calculations, with the rate of 4 percent per annum applicable unless changed by the board.

9 (h) Subject to the limitations of this chapter, the board shall, from time to time, establish
10 rules and regulations for the administration of the fund and for the transaction of business.

11 (i) The board shall keep a record of all of its proceedings under this chapter, which record
12 shall be open to the public.

13 (j) All persons employed by the board and the expenses of the board shall be paid from
14 funds appropriated by the General Assembly.

15 47-24-23.

16 (a) The board members shall be the trustees of the funds of the fund; may invest and
17 reinvest such funds; and may hold, purchase, sell, assign, transfer, and dispose of any of
18 the securities and investments in which any of the moneys of the fund created under this
19 chapter shall have been invested, as well as the proceeds of such investments and any
20 moneys belonging to such fund, all in such manner as funds of the Employees' Retirement
21 System of Georgia are invested and reinvested.

22 (b) Except as otherwise provided for in this chapter, no member or person employed by
23 the board shall have a direct interest in the gains or profits of any investment made by the
24 board. No member or employee of the board shall, directly or indirectly, for himself or
25 herself or as an agent, in any manner use the funds of the fund except to make such current
26 and necessary payments as are authorized by the board; nor shall any member or employee
27 of the board become an endorser, surety, or in any manner an obligor for moneys loaned
28 or borrowed from the board.

29 (c) The board shall be the custodian of the funds of the fund. All payments from such
30 funds shall be made by the board only upon vouchers signed by two persons designated by
31 the board.

32 47-24-24.

33 The accumulation account shall be the account in which all reserves for the payment of the
34 part of all retirement allowances and other benefits payable from contributions made by the
35 employer shall be held and from which all retirement allowances payable under the fund

1 and the administrative expenses shall be paid. All interest and dividends earned on the
2 funds of the fund shall be credited to the accumulation account.

3 ARTICLE 3

4 47-24-40.

5 All persons who are members of the Georgia National Guard on July 1, 2002, shall become
6 members of the fund as of such date. All other persons shall become members of the fund
7 on first becoming a member of the Georgia National Guard.

8 ARTICLE 4

9 47-24-60.

10 The employer contributions toward the cost of the fund shall be as actuarially determined
11 and approved by the board and, in making such determination, the adjutant general of the
12 state shall supply the board with such information at such times and in such manner as the
13 board shall specify by rules and regulations. The amounts determined as the employer
14 contributions shall be certified to the Office of Treasury and Fiscal Services at such times
15 as the board shall specify by rules and regulations. It shall be the duty of the director of the
16 Office of Treasury and Fiscal Services to pay to the board, from funds appropriated or
17 otherwise available to the fund, the amounts certified by the board. All employer
18 contributions shall be irrevocable and may be used only for the exclusive benefit of
19 members.

20 ARTICLE 5

21 47-24-80.

22 The creditable service of a member shall include all established creditable prior service,
23 service as a member of the Georgia National Guard since he or she became a member of
24 the fund, and such other service as may be allowed as creditable service pursuant to this
25 article.

26 47-24-81.

27 In addition to the creditable service allowed pursuant to Code Section 47-24-80, any
28 member shall receive creditable service for any prior service as a member of the United
29 States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Marine Corps,
30 Air Force, Air Force Reserve, Air National Guard, and Coast Guard if such service meets

1 the same requirement for creditable time served as set forth for nonregular service
2 retirement under Chapter 67 of Title 10 of the United States Code.

3 47-24-82.

4 (a) Any provision of this article to the contrary notwithstanding, no service which is used
5 to qualify a member for a retirement or pension benefit based on length of service, age, or
6 physical disability from any of the regular components of the United States armed forces,
7 including without limitation service in the active guard status, shall be used as creditable
8 service under this pension fund.

9 (b) Except as provided in subsection (a) of this Code section, no provision in this chapter
10 shall be construed as to affect or preclude any benefits to which a member may be entitled
11 under any federal or private retirement or pension plan or any retirement or pension fund
12 governed by this title.

13 ARTICLE 6

14 47-24-100.

15 (a) Upon the written application to the board, any member of the fund who:

16 (1) Has attained the age of 60 years;

17 (2) Has completed 20 or more years of creditable service, at least 15 of which were
18 service as a member of the Georgia National Guard;

19 (3) Served at least ten consecutive years as a member of the Georgia National Guard
20 immediately before discharge; and

21 (4) Has received an honorable discharge from the Georgia National Guard

22 shall be retired by the board on a retirement allowance and shall thereupon become a
23 beneficiary of the fund.

24 (b) The effective date of retirement shall be the first day of the month in which the
25 application is received by the board, but such effective date shall not, in any case, be earlier
26 than the first day of the month following the month of the applicant's discharge from the
27 Georgia National Guard. Applications for retirement shall not be accepted more than 90
28 days in advance of the date of discharge.

29 47-24-101.

30 Upon retirement under subsection (a) of Code Section 47-24-100, the retired member shall
31 receive a monthly service retirement allowance of \$50.00 plus an additional \$5.00 per
32 month for each year of creditable service over 20 years, up to a maximum monthly benefit
33 of \$100.00.

1 47-23-102.

2 All retirement allowances shall be paid in monthly payments and shall cease in the month
3 in which the death of the member occurs.

4 47-24-103.

5 If any retired member returns to the service of the Georgia National Guard, his or her
6 retirement allowance shall cease. Upon cessation of such service, the retired member, after
7 proper notification to the board, shall receive a retirement allowance calculated according
8 to the number of years of creditable service the member has accumulated at the end of such
9 return to service.

10 **ARTICLE 7**

11 47-24-120.

12 Any person who knowingly makes any false statements or falsifies or permits to be
13 falsified any records of the fund in any attempt to defraud the fund, as a result of such an
14 act, shall be guilty of a misdemeanor and, on conviction, shall be punished by a fine not to
15 exceed \$500.00, imprisonment not to exceed 12 months, or both.

16 47-24-121.

17 If any change or error in the records results in any member or beneficiary receiving from
18 the fund more or less than he or she would have been entitled to receive had the records
19 been correct, the board shall have the power to correct such error and to adjust the
20 payments as far as practicable in such a manner that the actuarial equivalent of the benefit
21 to which such member or beneficiary was correctly entitled shall be paid.

22 47-24-122.

23 The benefits provided under this chapter shall not be a part of any contract and shall be
24 subject to future legislation."

25 **SECTION 2.**

26 This Act shall become effective on July 1, 2002, only if it is determined to have been
27 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
28 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
29 become effective and shall be automatically repealed in its entirety on July 1, 2002, as
30 required by subsection (a) of Code Section 47-20-50.

1

SECTION 3.

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