

Senate Bill 86

By: Senators Hill of the 4th, Marable of the 52nd and Cheeks of the 23rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated,
2 relating to retirement allowances, disability benefits, and spouses' benefits under the
3 Teachers Retirement System of Georgia, so as to provide that under certain circumstances
4 a retired member of such retirement system may return to a teaching position and his or her
5 retirement benefits shall not be affected; to provide that a local school system desiring to
6 employ a retired member shall apply to the State Board of Education; to provide certain
7 requirements for approval; to provide for noncompliance; to provide for contributions to such
8 retirement system; to provide for an effective date and automatic repeal; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to
13 retirement allowances, disability benefits, and spouses' benefits under the Teachers
14 Retirement System of Georgia, is amended by striking in its entirety Code Section 47-3-127,
15 relating to the effect of restoration to service on retirement benefits and related matters, and
16 inserting in lieu thereof the following:

17 "47-3-127.

18 (a) ~~If~~ Except as otherwise provided in Code Section 47-3-127.1, if a beneficiary is restored
19 to service as a teacher, he or she may elect:

20 (1) Cessation of his or her retirement allowance, in which case he or she shall again
21 become a contributing member of the retirement system and be governed by the
22 retirement provisions of this chapter; or

23 (2) Not to reinstate his or her membership in the retirement system, in which case his or
24 her retirement benefits shall be suspended during the period of time he or she is restored
25 to service. Upon cessation of such service, his or her prior retirement allowance shall be

1 resumed. If the returning beneficiary fails to elect either choice, his or her status shall be
2 as if he or she had elected paragraph (1) of this subsection.

3 (b) Anything in this chapter to the contrary notwithstanding, except as otherwise provided
4 in Code Section 47-3-127.1, any prior service certificate on the basis of which a member's
5 creditable service was computed at the time of his or her retirement shall be restored to full
6 force and effect upon his or her restoration to service. Upon his or her subsequent
7 retirement he or she shall be credited with all his or her service as a member, including
8 service rendered after restoration to service. If he or she is restored to service on or after
9 attaining age 50, his or her retirement benefits upon subsequent retirement shall not exceed
10 the sum of the pension which he or she was receiving immediately prior to his or her last
11 restoration to membership and the pension payable in respect to his or her subsequent
12 service, except as provided in subsection (c) of this Code section, provided that if he or she
13 has served at least two school years as a contributing member after restoration to service
14 and if he or she reimburses the retirement system for any retirement benefits received from
15 the retirement system during his or her retirement, plus regular interest, such person shall
16 receive credit for any prior creditable service; and upon subsequent retirement he or she
17 shall be credited with all his or her service as a member, which service shall all be counted
18 in determining his or her retirement benefits upon subsequent retirement. He or she shall
19 not be limited to the retirement benefits he or she was receiving prior to his or her last
20 restoration to membership in the retirement system.

21 (c) The retirement benefits payable to a beneficiary who retired prior to July 1, 1961, who
22 was restored to service and who subsequently retired on or after July 1, 1961, shall be
23 determined under the pension provisions in effect at the time of that subsequent retirement,
24 provided that such member completed at least one year of creditable service subsequent to
25 such restoration to service.

26 (d) Anything in this chapter to the contrary notwithstanding, a beneficiary may elect to
27 return to service on an hourly basis as a classroom aide, provided such service is less than
28 full time, or as a substitute teacher without reinstating his or her membership in the system.
29 If such election is made, he or she shall continue to receive his or her retirement benefits
30 and any postretirement benefit adjustments granted, if any, during such part-time service.
31 Such part-time service shall not constitute creditable service and such beneficiary shall not
32 be entitled to a recomputation of retirement benefits upon a cessation of part-time service.

33 (e)(1) ~~A~~ Except as otherwise provided in Code Section 47-3-127.1, a beneficiary of this
34 retirement system shall be deemed to be restored to service within the meaning of this
35 Code section if such beneficiary is employed by an employer:

36 (A) In a position previously held by a teacher; or

1 (B) In a capacity which would normally be held by a teacher, as determined by the
 2 board of trustees, whether employed directly or indirectly, for which the compensation
 3 is greater than one-half of the beneficiary's average annual compensation used to
 4 calculate his or her retirement benefit or the beneficiary's final compensation at the
 5 time of his or her retirement, whichever is larger; provided, however, that such amount
 6 shall be increased by any annual cost-of-living adjustment reflected in the state teacher
 7 salary schedule.

8 (2) If an employer employs a beneficiary in any manner specified in paragraph (1) of this
 9 subsection during the calendar month of the effective date of the beneficiary's retirement,
 10 the employer shall reimburse the retirement system for all benefits wrongly paid to the
 11 beneficiary.

12 (3) If an employer employs a beneficiary in any manner specified in paragraph (1) of this
 13 subsection any time after the last day of the calendar month of the effective date of the
 14 beneficiary's retirement, the employer shall so notify the board of trustees, stating the
 15 beneficiary's name, salary, number of hours, whether the beneficiary is employed as a
 16 teacher, and such other information as the board of trustees requests, and the employer
 17 shall reimburse the retirement system for all benefits wrongly paid to the beneficiary.

18 (4) It shall be the duty of a beneficiary of this retirement system to notify an employer
 19 of his or her status as a beneficiary prior to accepting employment with that employer.
 20 If a beneficiary fails to so notify an employer and as a result the employer becomes
 21 obligated to this retirement system pursuant to paragraph (2) or (3) of this subsection, the
 22 beneficiary shall be liable to the employer for any amount the employer is obligated to
 23 pay to this retirement system.

24 (5) If an employer who is obligated to this retirement system pursuant to paragraph (2)
 25 or (3) of this subsection fails to pay the amount due, such amount shall be deducted from
 26 any funds payable to the employer by the state, including without limitation the
 27 Department of Education and the board of regents, and paid to the board of trustees of
 28 this retirement system."

29 SECTION 2.

30 Said article is further amended by inserting immediately following Code Section 47-3-127
 31 a new Code section to read as follows:

32 "47-3-127.1.

33 (a) A retired member of this retirement system may return to service as a classroom
 34 teacher if he or she is employed in accordance with the provisions of subsection (b) of this
 35 Code section, and the retirement benefits of such member shall not be affected by such
 36 employment.

1 (b) A local school system desiring to employ a retired member as provided in subsection
 2 (a) of this Code section shall apply to the State Board of Education in such manner as the
 3 board shall require and provide such documentation as the board deems appropriate to
 4 show that such hiring is necessary because of a compelling economic or geographic need.

5 The local school system must show, at a minimum, that it has attempted to find and employ
 6 a qualified nonretired teacher for the position and has been unable to do so, and that the
 7 retired member under consideration for such employment is fully qualified to fill the
 8 position; provided, however, that a local school system shall not consider so employing a
 9 retired member for the next contract year prior to July 15. The local school system may
 10 employ a retired member pursuant to this Code section if the board approves such
 11 employment in writing.

12 (c) A local school system employing a retired member of this retirement system pursuant
 13 to this Code section shall notify the board of trustees of this retirement system in writing
 14 as soon as practicable, but not later than the commencement of employment, providing
 15 such information as the board deems proper.

16 (d) Any local school system which employs a retired member of this retirement system and
 17 which fails to comply with the provisions of this Code section, and the retired member so
 18 employed, shall be subject to all other provisions of this chapter including, without
 19 limitation, Code Section 47-3-127.

20 (e) A local school system and a retired member subject to this Code section shall make all
 21 regular contributions to this retirement system as otherwise provided in this chapter;
 22 provided, however, that no such retired member shall receive any further creditable service
 23 as a result of such employment and shall in all ways be considered by this retirement
 24 system solely as a retired member.

25 (f) A teacher employed pursuant to this Code section shall be compensated at the base
 26 salary for a teacher with no years of experience."

27 **SECTION 3.**

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

33 **SECTION 4.**

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