

House Bill 210 (FLOOR SUBSTITUTE)

By: Representatives Cummings of the 27th, McBee of the 88th and Coleman of the 80th

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 conditions pursuant to which a
4 member of such retirement system who was retired on a service retirement on December 31,
5 2001, may return to service and maintain his or her benefits; to define certain terms; to
6 provide that under certain conditions, a local school system may employ a retired member
7 of such retirement system as a full-time classroom teacher; to provide conditions of such
8 employment; to provide that such provisions shall not become a part of the employment
9 contract and shall be subject to legislation; to provide for a limitation on the number of
10 retired teachers and the duration of such employment; to provide a penalty for
11 noncompliance; to provide for an automatic repeal of all such provisions; to provide
12 conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to
17 retirement allowances, disability benefits, and spouses' benefits under the Teachers
18 Retirement System of Georgia, is amended by striking in its entirety subsection (a) of Code
19 Section 47-3-127, relating to the effect of restoration to service on retirement allowances, and
20 inserting in lieu thereof the following:

21 "(a) If, except as provided in Code Section 47-3-127.1, a beneficiary is restored to service
22 as a teacher, he or she may elect:

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

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

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

7 SECTION 2.

8 Said article is further amended by striking in its entirety paragraph (1) of subsection (e) of
 9 said Code Section 47-3-127 and inserting in lieu thereof the following:

10 "(e)(1) A beneficiary of this retirement system shall be deemed to be restored to service
 11 within the meaning of this Code section if, except as otherwise provided in Code Section
 12 47-3-127.1, such beneficiary is employed by an employer:

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

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

21 SECTION 3.

22 Said article is further amended by inserting immediately following said Code Section
 23 47-3-127 a new Code section to read as follows:

24 "47-3-127.1.

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

26 (1) 'Classroom teacher' means:

27 (A) A certified teacher of grades prekindergarten through 12 employed by the public
 28 schools who has as his or her primary responsibility the academic instruction of
 29 students in a classroom. Such term shall not apply to any teacher whose duties include
 30 in whole or in part service as an athletic coach;

31 (B) A certified public school librarian; and

32 (C) A certified school counselor.

33 (2) 'Retired teacher' means a member of this retirement system who was retired on
 34 December 31, 2001, on a service retirement with at least 30 years of creditable service
 35 or after attaining the age of 60 years.

1 (b)(1) A local school system may employ a retired teacher as a full-time classroom
2 teacher and such person shall be subject to the provisions of subsection (c) of this Code
3 section if the State Board of Education certifies to the board of trustees that:

4 (A) Such hiring is necessary because of compelling economic or geographic need;

5 (B) The local school system has diligently and in good faith attempted to find and
6 employ a qualified teacher for the position and has been unable to do so; and

7 (C) The retired teacher under consideration for the position is fully qualified to fill the
8 position.

9 (2) The State Board of Education shall develop rules and procedures to carry out the
10 provisions of this subsection. The board of trustees may, in its discretion, require such
11 additional information or documents from the local school system as it deems necessary.
12 No such retired teacher shall be employed under the provisions of this subsection until
13 the board of trustees approves such employment.

14 (3) The number of retired teachers any local school system may employ under this
15 subsection shall not exceed 1 percent of the total number of full-time classroom teachers
16 employed by the school system at the end of the preceding contract year; provided,
17 however, that any local school system may employ at least ten retired teachers.

18 (4) No retired teacher may be employed under the provisions of this subsection until he
19 or she has been retired under this retirement system for at least one month.

20 (5) No retired teacher shall be employed under the provisions of this subsection for more
21 than a total of five years. Each such retired teacher shall be employed under a contract
22 not exceeding 12 months in duration. The certification of the State Board of Education
23 provided for in paragraph (1) of this subsection shall be required prior to each subsequent
24 contract. No local school system shall enter into a contract for services to be performed
25 on or after July 1, 2008.

26 (6) The salary paid to any retired teacher employed as a classroom teacher under this
27 Code section shall be commensurate with the position and the individual's qualifications
28 and experience.

29 (7) A public school system employing a retired teacher subject to this subsection shall
30 pay all employer contributions to this retirement system as otherwise provided in this
31 chapter; provided, however, that no such retired teacher shall receive any further
32 creditable service as a result of such employment and shall in all ways be considered by
33 this retirement system solely as a retired teacher.

34 (8) A public school system employing a retired teacher pursuant to this subsection shall
35 notify the board of trustees of this retirement system in writing as soon as practicable, but
36 not later than the commencement of employment, providing such information as the
37 board deems proper.

1 (c) Any other provision of this article to the contrary notwithstanding, a retired teacher
2 may return to service as a classroom teacher for a total of not more than five years if he or
3 she is employed solely under the conditions contained in this Code section, and such
4 member's benefits under this article shall not be affected; provided, however, that the
5 provisions of this subsection shall not apply to service performed on or after July 1, 2008.

6 Any such retired teacher so employed shall not retain any tenure as he or she had prior to
7 his or her retirement, shall not be considered an active member of this retirement system,
8 shall not accrue any additional benefits, shall not pay employee contributions to this
9 retirement system, and shall not be eligible for employment benefits, including, without
10 limitation, life and health insurance, by virtue of such employment. The provisions of this
11 subsection shall not become a part of the employment contract and shall be subject to
12 future legislation. Any teacher subject to this subsection may elect at any time to suspend
13 his or her retirement benefits and become a regular full-time teacher as otherwise provided
14 in this chapter, but no service accrued under this subsection shall under any circumstances
15 be used to calculate a benefit under this chapter.

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

20 (e) This Code section shall be automatically repealed on July 1, 2008, and no person shall
21 have any rights pursuant to the provisions of this Code section on and after that date."

22 **SECTION 4.**

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

28 **SECTION 5.**

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