

House Bill 210 (FLOOR SUBSTITUTE)

By: Representatives Cummings of the 27<sup>th</sup>, McBee of the 88<sup>th</sup> and Coleman of the 80<sup>th</sup>

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.