

House Bill 210 (AS PASSED HOUSE AND SENATE)

By: Representatives McBee of the 88th, Cummings of the 27th, Purcell of the 147th, Taylor of the 134th, Coleman of the 80th and others

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 a certified teacher of grades prekindergarten through 12
 27 employed by the public schools who has as his or her primary responsibility the academic
 28 instruction of students in a classroom.

29 (2) 'Improvement specialist' means a certified teacher employed by a regional educational
 30 service agency as defined in Code Section 20-2-270 for the purpose of implementing an
 31 improvement plan or strategy at a qualified school.

32 (3) 'Qualified school' means a school identified by the State Board of Education prior to
 33 the beginning of each school year:

34 (A) For the school years beginning in the years 2002 and 2003, as a school needing
 35 improvement that fails for two or more consecutive years to make adequate yearly

1 progress pursuant to Title 1, Part A of the No Child Left Behind Act of 2001, Public
2 Law 107-110;

3 (B) For the school years beginning in 2002 and 2003, as having 50 percent or more of
4 its students failing to meet the standard that should be achieved by students in any
5 subject area at any grade level as designated by the Office of Education Accountability
6 in Code Section 20-14-31; or

7 (C) For school years beginning after 2003, as having received a grade of D or F on
8 student performance for the absolute student achievement standard or on progress on
9 improved student achievement as determined by the Office of Education Accountability
10 based on the indicators adopted under Code Section 20-14-33 or as otherwise
11 recommended by the office as part of an improvement strategy for the school in whole
12 or in part under Code Section 20-14-41.

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

16 (b)(1) A local school system may employ a retired teacher as a full-time classroom
17 teacher in a qualified school and such person shall be subject to the provisions of
18 subsection (c) of this Code section if the State Board of Education certifies to the board
19 of trustees that the local school system is employing the retired teacher in a qualified
20 school.

21 (2) A regional educational service agency established pursuant to Code Section 20-2-270
22 may employ a retired teacher as an improvement specialist in a qualified school and such
23 person shall be subject to the provisions of subsection (c) of this Code section if the State
24 Board of Education certifies to the board of trustees that the local school system is
25 employing the retired teacher in a qualified school.

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

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

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

1 (6) The salary paid to any retired teacher employed as a classroom teacher under this
2 Code section shall be commensurate with the position and the individual's qualifications
3 and experience. Teachers paid under this Code section shall be reported to the state at
4 the certificate and experience level at which the teacher is assigned. No state funds for
5 health insurance shall be earned for the requested state salary amount.

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

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

15 (c) Any other provision of this article to the contrary notwithstanding, a retired teacher
16 may return to service as a classroom teacher for a total of not more than five years if he or
17 she is employed solely under the conditions contained in this Code section, and such
18 member's benefits under this article shall not be affected; provided, however, that the
19 provisions of this subsection shall not apply to service performed on or after July 1, 2008.
20 Any such retired teacher so employed shall not retain any tenure as he or she had prior to
21 his or her retirement, shall not be considered an active member of this retirement system,
22 shall not accrue any additional benefits, shall not pay employee contributions to this
23 retirement system, and shall not be eligible for employment benefits, including, without
24 limitation, life and health insurance, by virtue of such employment. The provisions of this
25 subsection shall not become a part of the employment contract and shall be subject to
26 future legislation. Any teacher subject to this subsection may elect at any time to suspend
27 his or her retirement benefits and become a regular full-time teacher as otherwise provided
28 in this chapter, but no service accrued under this subsection shall under any circumstances
29 be used to calculate a benefit under this chapter.

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

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

36 SECTION 4.

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

6 **SECTION 5.**

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