

Senate Bill 256

By: Senator Fort of the 39<sup>th</sup>

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 establish the Teachers' Optional Retirement Plan; to define certain terms;  
3 to provide that the board of trustees of the Teachers Retirement System of Georgia shall  
4 establish an account for certain teachers in such plan; to provide for participation in such  
5 plan; to provide for the payment of employer and employee contributions into such plan; to  
6 provide for an election of participation; to provide for vesting; to provide for the distribution  
7 of funds; to provide for the transfer of funds to the board of trustees of the Teachers  
8 Retirement System of Georgia and the grant of creditable service in such retirement system;  
9 to provide a penalty for certain employment related crimes; to provide for matters related  
10 thereto; to provide conditions for an effective date and automatic repeal; to repeal conflicting  
11 laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is  
15 amended by inserting at the end thereof the following:

16 "CHAPTER 24

17 ARTICLE 1

18 47-24-1.

19 As used in this chapter, the term:

20 (1) 'Beneficiary' means an individual nominated by a participant or a former participant  
21 to receive a distribution of the participant's accumulated balance.

22 (2) 'Board' means the board of trustees of the Teachers Retirement System of Georgia.

23 (3) 'Compensation' means the remuneration paid to an employee on account of the  
24 employee's services rendered to an employer. Such term includes only wages and other

1 compensation as reported by the employer on the employee's wage and tax statement,  
2 federal form W-2.

3 (4) 'Eligible employee' means an employee as defined in paragraph (6) of this Code  
4 section who first becomes employed on or after July 1, 2003, or who again becomes  
5 employed and is not eligible for continued or renewed membership in another public  
6 retirement system pursuant to the provisions of his or her prior employment and who is  
7 employed on a full-time basis.

8 (5) 'Employee' means a classroom teacher eligible for membership in the Teachers  
9 Retirement System of Georgia.

10 (6) 'Employer' means the State of Georgia, the county or independent board of education,  
11 or any other agency of and within this state by which a teacher is paid.

12 (7) 'Plan' means the Teachers' Optional Retirement Plan.

## 13 ARTICLE 2

14 47-24-20.

15 Not later than July 1, 2003, the board shall create the Teachers' Optional Retirement Plan  
16 as a qualified plan in accordance with the federal Internal Revenue Code for the purpose  
17 of providing a source of retirement income for eligible employees. The plan shall not exist  
18 as a separate entity but rather as a service provided by the state for eligible employees. The  
19 board is the fiduciary and trustee of the plan.

20 47-24-21.

21 The board shall establish the provisions and procedures of the plan in conformity with this  
22 chapter and the federal Internal Revenue Code. The board may appoint an advisory board  
23 to assist in carrying out the duties imposed by this chapter. The board has the authority and  
24 responsibility to employ or contract with personnel and for services that the board  
25 determines are necessary for the proper administration of and investment of the assets of  
26 the plan, including, but not limited to, managerial, professional, legal, clerical, technical,  
27 and administrative personnel or services.

28 47-24-22.

29 The administrative expenses of the plan shall be paid by the participants, former  
30 participants, and beneficiaries who have not closed their accounts in a manner determined  
31 by the board.

1 47-24-23.

2 The board shall establish an account in the plan for each eligible employee opting for  
3 participation in the plan.

4 ARTICLE 3

5 47-24-40.

6 Any eligible employee, at the time he or she is first employed, shall make an election to  
7 participate in the Teachers Retirement System of Georgia or be a participant in the plan.

8 No eligible employee who elects to participate in the plan shall be entitled to participate  
9 in the Teachers Retirement System of Georgia.

10 47-24-41.

11 (a) A participant's employer shall contribute to the participant's account an amount equal  
12 to the percentage of the employer's contribution to the Teachers Retirement System of  
13 Georgia. A participant shall pay into the plan an amount equal to the percentage of  
14 employee contributions to such retirement system.

15 (b) A participant may periodically elect to contribute to his or her account such additional  
16 amount as shall not exceed the amount allowed by the federal Internal Revenue Service for  
17 a qualified plan.

18

19 47-24-42.

20 (a) At any time before a participant has five years of actual teaching service, he or she  
21 shall have the opportunity to make an irrevocable election to terminate his or her  
22 participation in the plan and become a member of the Teachers Retirement System of  
23 Georgia. Such election shall be made in writing to the board of trustees. A member who  
24 does not make such an election by the date he or she completes five years of teaching  
25 service after becoming a participant in the plan shall continue to be a participant of the plan  
26 and shall be forever barred from membership in such retirement system.

27 (b) A member who makes and files a written election under subsection (a) of this Code  
28 section to become a member of the Teachers Retirement System of Georgia shall be  
29 entitled to transfer all funds in his or her account in the plan to the board of trustees of the  
30 Teachers Retirement System of Georgia, subject to any federal taxes and penalties. The  
31 board of trustees shall credit such member with such creditable service, not to exceed the  
32 amount of actual service such member has accrued, as such amount will warrant without

1 creating any accrued actuarial unfunded liability as to this retirement system. Any funds  
2 in excess of the amount necessary to grant the maximum number of years of allowable  
3 service shall be refunded to the member.

4  
5 ARTICLE 4

6 47-24-60.

7 A participant is immediately 100 percent vested in all contributions made to the plan by  
8 the participant and the employer.

9 47-24-61.

10 A participant or former participant may nominate one or more individuals as beneficiary  
11 by filing written notice of nomination with the board. In lieu of appointing an individual,  
12 the participant or former participant may appoint his or her estate to receive distribution of  
13 his or her accumulated balance.

14 47-24-62.

15 (a) A participant is eligible to receive distribution of his or her accumulated balance in the  
16 plan at any time, subject to federal taxes and penalties.

17 (b) Upon the death of a participant or former participant, the accumulated balance  
18 belonging to that deceased participant is considered to belong to the beneficiary, if any, of  
19 that deceased participant. If a valid nomination of the beneficiary is not on file with the  
20 board, the board, in a lump sum distribution, shall distribute the accumulated balance to the  
21 legal representative, if any, of the deceased participant or, if there is no legal representative,  
22 to the deceased participant's estate.

23 (c) A former participant or beneficiary may elect one or a combination of the following  
24 methods of distribution:

25 (1) A lump sum distribution to the recipient;

26 (2) A lump sum direct rollover to another qualified plan, to the extent allowed by federal  
27 law;

28 (3) Periodic distributions to the recipient, as authorized by the board; or

29 (4) No current distribution, in which case the accumulated balance shall remain in the  
30 plan until the former participant or the beneficiary elects a method or methods of  
31 distribution under paragraphs (1) through (3) of this subsection, to the extent allowed by  
32 federal law.

## ARTICLE 5

47-24-90.

The provisions of this chapter shall not become part of the employment contract and shall be subject to future legislation.

47-24-92.

The board has the right to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a participant, a former participant, a beneficiary, or any other person who has a claim to a distribution from the plan.

47-24-93.

If a participant commits a public employment related crime in the capacity of a public employee and is convicted for the commission of such crime, he or she shall forfeit any right to the employer contributions made on his or her behalf and the earnings thereon and to any earnings on employee contributions, effective on the date of the final conviction. Any employee contributions made by any such person shall be refunded to him or her, without earnings or interest, within 60 days of the final conviction."

**SECTION 3.**

Said title is further amended by inserting immediately following Code Section 47-3-68 a new Code section to read as follows:

"47-3-69.

Any other provision of this chapter to the contrary notwithstanding, no person who elects to participate in the Teachers' Optional Retirement Plan as provided in Chapter 23 of this title shall become a member of this retirement system; provided, however, that any such person exercising his or her right to elect membership in this retirement system as provided in such chapter shall become a member of this retirement system, and the board shall credit each such member with such creditable service, not to exceed the amount of actual service such member has accrued, as the amount transferred from such plan to this retirement system will warrant without creating any accrued actuarial unfunded liability as to this retirement system. Any funds in excess of the amount necessary to grant the maximum number of years of allowable service shall be refunded to the member."

