

Senate Bill 259

By: Senator Fort of the 39<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  
4 certain retired members of such retirement system may return to service and maintain their  
5 benefits; to provide for the commitment of a certain period of service; to provide for the  
6 creation of a separate deferred benefit account within such retirement system; to provide for  
7 the disbursement of funds; to provide for the forfeiture of funds; to provide for rules and  
8 regulations; to provide conditions for an effective date and automatic repeal; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**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 allowances, and inserting in lieu  
16 thereof the following:

17 "47-3-127.

18 (a) If, except as provided in Code Section 47-3-127.1, a beneficiary is restored to service  
19 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  
26 resumed.

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

3 (b) Anything in this chapter to the contrary notwithstanding, any prior service certificate  
4 on the basis of which a member's creditable service was computed at the time of his or her  
5 retirement shall be restored to full force and effect upon his or her restoration to service.

6 Upon his or her subsequent retirement, he or she shall be credited with all his or her  
7 service as a member, including service rendered after restoration to service. If he or she is  
8 restored to service on or after attaining age 50, his or her retirement benefits upon  
9 subsequent retirement shall not exceed the sum of the pension which he or she was  
10 receiving immediately prior to his or her last restoration to membership and the pension  
11 payable in respect to his or her subsequent service, except as provided in subsection (c) of  
12 this Code section, provided that if he or she has served at least two school years as a  
13 contributing member after restoration to service and if he or she reimburses the retirement  
14 system for any retirement benefits received from the retirement system during his or her  
15 retirement, plus regular interest, such person shall receive credit for any prior creditable  
16 service; and upon subsequent retirement he or she shall be credited with all his or her  
17 service as a member, which service shall all be counted in determining his or her retirement  
18 benefits upon subsequent retirement. He or she shall not be limited to the retirement  
19 benefits he or she was receiving prior to his or her last restoration to membership in the  
20 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 beneficiary of this retirement system shall be deemed to be restored to service  
34 within the meaning of this Code section if, except as otherwise provided in Code Section  
35 47-3-127.1, 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) Any other provision of this Code section to the contrary notwithstanding, a member  
 34 of this retirement system who is eligible to receive a service retirement may elect to return  
 35 to or remain in full-time service as a classroom teacher as provided in this Code section.

1 (b) A member desiring to remain in service as provided in this Code section shall commit  
2 to at least three but not more than five contract years beginning after the date he or she  
3 becomes eligible to receive a service retirement benefit. During such period of  
4 employment, the member shall not be considered an active member of this retirement  
5 system but rather shall be considered a retired member and no contributions shall be paid  
6 by the member or on such member's behalf.

7 (c) The board of trustees shall establish a separate account known as the deferred benefit  
8 account in accordance with the provisions of the federal Internal Revenue Code. The board  
9 shall transfer an amount equal to the normal monthly benefit of a member who has made  
10 the commitment for continued service as provided in subsection (b) of this Code section  
11 to the deferred benefit account and shall invest the amount so transferred in a manner to be  
12 determined by the board. The board is authorized to deduct the cost of administering the  
13 provisions of this Code section from each member's deferred benefit account on a pro rata  
14 basis.

15 (d) Upon the expiration of the term of service specified as provided in subsection (b) of  
16 this Code section, the member shall be entitled to withdraw all or a portion of the amount  
17 in his or her account established as provided in such subsection. The board is authorized  
18 and directed to provide for a plan of deferred disbursements from such account in  
19 accordance with the provisions of the federal Internal Revenue Code.

20 (e) Any member who commits to a term of service as a classroom teacher as provided in  
21 subsection (b) of this Code section but who for any reason fails to complete such term of  
22 service shall forfeit all amounts in his or her deferred benefit account. The board use any  
23 money so forfeited to offset the costs of administering the provisions of this Code section.

24 (f) The board is authorized and directed to promulgate such rules as the board deems  
25 necessary to carry out the intent of this Code section."

### 26 SECTION 3.

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

### 32 SECTION 4.

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