

House Bill 612 (COMMITTEE SUBSTITUTE)

By: Representative Cummings of the 27th

A BILL TO BE ENTITLED

AN ACT

To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to amend the definition of a certain term; to change certain internal references within such title; to amend the provisions relating to the manner in which the state auditor enforces certain investment requirements in such title; to delete the requirement of a certain report of the state auditor; to change the requirement of a certain actuarial investigation from every three years to every two years; to change the requirements of a certain report of the state auditor; to clarify provisions relating to the enforcement of noncompliance with the investment restrictions of said title; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is amended by striking subsection (a) of Code Section 47-1-3, relating to the power of a local retirement system to hire an actuary, payment of the administrative costs of a local retirement system, periodic actuarial investigations, and an annual financial report, and inserting in lieu thereof the following:

"(a) As used in this Code section, the term 'local retirement system' means any retirement, pension, or emeritus system covering an employee or employees of a county, municipality, local board of education, or other political subdivision, or any groups or classifications of such employees which is funded at least in part by such political subdivisions for the purpose of paying benefits to employees or their beneficiaries after employees cease active employment by retirement, disability, death, or other termination. Such term shall include any plan or program which creates a retired position, commonly referred to as 'emeritus,' and provides a salary for the retired position in lieu of a retirement benefit. Such term shall not include an individual retirement account or other plan which provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account and any income, expenses, gains, and losses and any forfeitures of accounts of other participants which may be allocated to a participant's account."

SECTION 2.

Said title is further amended by striking in its entirety Code Section 47-1-5, relating to the duty of governing authorities to make and file actuarial investigations and to file financial reports and withholding of state funds for failure to meet this duty, and inserting in lieu thereof the following:

"41-1-5.

It shall be the duty of the governing authority of each county, municipality, or other political subdivision whose employees are covered under a local retirement system and the duty of a local board of education whose employees are covered under a local retirement system to cause the actuarial investigations required by subsection (d) of Code Section 47-1-3 to be made and to cause such actuarial investigations to be filed with the state auditor as required by that subsection. It shall also be their duty to cause financial reports to be submitted to the state auditor as required by subsections (e) through (j) of Code Section 47-1-3. If a required actuarial investigation and financial report are not submitted, then within 30 days after the date on which such investigation and report were due in the office of the state auditor, the state auditor shall notify, in writing, the governing authority of the county, municipality, or other political subdivision whose employees are covered under the applicable local retirement system. If the actuarial investigation and financial report are not received by the state auditor within 60 days after the date such notice is sent to the governing authority, the state auditor shall notify ~~the director of the Office of Treasury and Fiscal Services~~, and it shall be the duty of the director all state agencies, and it shall be the duty of each state agency to withhold any state funds payable to the applicable political subdivision or local board of education until the actuarial investigation and financial report are submitted to the state auditor. The state auditor shall advise ~~the director of the Office of Treasury and Fiscal Services~~ all state agencies within five days after receiving the actuarial investigation and financial report to release any state funds payable to the applicable political subdivision."

SECTION 3.

Said title is further amended by striking in its entirety Code Section 47-1-12, relating to the investment and reinvestment of assets of local retirement system, valuation and limitation on investments, and the duties of the state auditor, and inserting in lieu thereof the following:

1 "47-1-12.

2 ~~(a) The board of trustees of any local retirement system shall have full power to invest and~~
3 ~~reinvest assets of the retirement system and to purchase, hold, sell, assign, transfer, and~~
4 ~~dispose of any securities and other investments in which assets of the retirement system~~
5 ~~have been invested, any proceeds of any investments, and any money belonging to the~~
6 ~~retirement system; provided, however, that, except as otherwise provided in this Code~~
7 ~~section, such power shall be subject to all terms, conditions, limitations, and restrictions~~
8 ~~imposed by the laws of this state upon domestic life insurance companies in making and~~
9 ~~disposing of their investments.~~

10 ~~(b) Notwithstanding the provisions of Code Section 33-11-21, the board of trustees of any~~
11 ~~local retirement system shall not be restricted to investing in those equities which have paid~~
12 ~~a cash dividend in at least three of the last five years preceding the purchase of such~~
13 ~~equities.~~

14 ~~(c) Nothing in this Code section shall be construed to limit or restrict the authority of the~~
15 ~~board of trustees of any retirement system to invest or reinvest assets of such system in~~
16 ~~such manner and under such conditions as are authorized by law.~~

17 ~~(d) The state auditor shall monitor the investment activity of local retirement systems and~~
18 ~~shall submit a report to the Governor and the presiding officer of each chamber of the~~
19 ~~General Assembly describing the effect, if any, changes in investment policy have had on~~
20 ~~those systems. Such report shall be submitted not later than December 31, 2001.~~

21 Reserved."

22 SECTION 4.

23 Said title is further amended by striking in its entirety subsection (h) of Code Section
24 47-20-10, relating to minimum annual employer contributions, and inserting in lieu thereof
25 the following:

26 "(h) The minimum funding requirements of this Code section shall not apply to
27 prefunding, in whole or in part, of anticipated future costs of providing health care benefits
28 and related expenses including, without limitation, provision of all or part of the cost of
29 health insurance coverage and health maintenance organization participation costs for
30 retired employees of a political subdivision including those presently retired and those
31 anticipated to retire in the future. Such prefunding may be maintained as part of the same
32 investment pool as the fund receiving employer and employee contributions to pay the cost
33 of providing retirement benefits under any retirement system maintained by the political
34 subdivision for its employees so long as such funds are separately accounted for and
35 separate records are maintained with respect to each fund. Funds maintained by a political
36 subdivision for the purpose of prefunding health care benefits for retired employees may

1 be invested and reinvested in accordance with the provisions of ~~Code Section 47-1-12~~
2 Article 7 of this chapter, and, for the purposes of that ~~Code section article~~ and the home
3 rule provisions of the laws and the Constitution of the State of Georgia, such funds shall
4 be considered retirement funds."

5 SECTION 5.

6 Said title is further amended by striking in its entirety Code Section 47-20-21, relating to
7 triennial actuarial investigations, penalties for violations shown, and lists of local systems not
8 in conformance reported triennially, and inserting in lieu thereof the following:

9 "47-20-21.

10 (a) The retirement system administrator of each retirement system of a political
11 subdivision shall comply fully with the requirements of Code Section 47-1-3 requiring the
12 employment of an actuary and the completion of actuarial investigations once every ~~three~~
13 two years. In addition to the other requirements specified by Code Section 47-1-3 for such
14 actuarial investigations, each such investigation shall express the actuary's opinion, which
15 shall be supported by such analysis as the actuary determines necessary, of the status of the
16 retirement system with regard to the minimum funding standards specified in Code Section
17 47-20-10. Each such actuarial investigation shall also include an analysis of each change
18 in or amendment to the retirement system since the previous investigation and shall identify
19 any change or amendment which granted a benefit increase.

20 (b) If an actuarial investigation or a financial report which is submitted to the state auditor
21 under Code Section 47-1-3 shows that an amendment or change was made in a retirement
22 system of a political subdivision granting a benefit increase in violation of subsection (a)
23 of Code Section 47-20-20 or shows that a retirement system of a political subdivision is not
24 in conformity with the requirements of subsection (b) of Code Section 47-20-20, it shall
25 be the duty of the state auditor to notify ~~the director of the Office of Treasury and Fiscal~~
26 ~~Services; and it shall be the duty of the director~~ all state agencies, and it shall be the duty
27 of each agency to withhold any state funds payable to the applicable political subdivision
28 until the actuary of the applicable retirement system certifies to the state auditor and to the
29 director that employer contributions to each retirement system of the political subdivision
30 are in conformity with the minimum funding standards specified in Code Section 47-20-10.
31 (c) The report on the condition of local retirement systems submitted to the Governor and
32 to members of the General Assembly pursuant to Code Section 47-1-4 shall include a
33 ~~separate list of~~ each retirement system of each political subdivision which is not in
34 conformity with the minimum funding standards specified by Code Section 47-20-10 and
35 ~~a separate attachment giving~~ a full explanation of any action taken pursuant to subsection
36 (b) of this Code section."

SECTION 6.

Said title is further amended by inserting at the end of Code Section 47-20-81, relating to the definition of the term "fund" and applicability, the following:

"(c) The board of trustees of any local retirement system shall have full power to invest and reinvest assets of the retirement system and to purchase, hold, sell, assign, transfer, and dispose of any securities and other investments in which assets of the retirement system have been invested, any proceeds of any investments, and any money belonging to the retirement system, subject to all terms, conditions, limitations, and restrictions imposed by the provisions of this article."

SECTION 7.

Said title is further amended by striking in their entirety subsections (b) and (c) of Code Section 47-20-84, relating to a limitation on the amount of equities in which retirement systems may invest, and inserting in lieu thereof the following:

"(b) A large retirement system may not invest more than 10 percent of the retirement system assets, based on asset costs, in corporations or in obligations of corporations organized in a country other than the United States or Canada subject to the provisions of paragraph (1) of subsection (a) of Code Section 47-20-83.

(c) A fund shall not invest more than 55 percent of retirement system assets, based on asset costs, in equities; provided, however, that a large retirement system shall invest not more than 60 percent of its assets in equities. Any fund which is not in compliance with the provisions of this subsection shall immediately be subject to the provisions of Code Section 47-20-86; provided, however, that any fund which is was not in compliance with the limitations imposed by this subsection on July 1, 2000, shall be granted a two-year grace period until July 1, 2002, to come into compliance; provided, ~~however~~ further, that during such ~~two-year~~ period, the fund shall not increase the percentage of its assets invested in equities."

SECTION 8.

Said title is further amended by inserting at the end of Code Section 47-20-84, relating to a limitation on the amount of equities in which retirement systems may invest, the following:

"(e) The state auditor may monitor the investment activity of any retirement system and report to the Governor and the presiding officer of each chamber of the General Assembly describing the effect, if any, changes in investment policy have had on such system."

SECTION 9.

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