

House Bill 210

By: Representatives McBee of the 88<sup>th</sup>, Cummings of the 27<sup>th</sup>, Purcell of the 147<sup>th</sup>, Taylor of the 134<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 retired member of such retirement system may return to service and maintain his or her  
5 benefits; to define a certain term; to provide conditions for an effective date and automatic  
6 repeal; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to  
10 retirement allowances, disability benefits, and spouses' benefits under the Teachers  
11 Retirement System of Georgia, is amended by striking in its entirety Code Section 47-3-127,  
12 relating to the effect of restoration to service on retirement allowances, and inserting in lieu  
13 thereof the following:

14 "47-3-127.

15 (a) If, except as provided in subsection (f) of this Code section, a beneficiary is restored  
16 to service as a teacher, he or she may elect:

17 (1) Cessation of his or her retirement allowance, in which case he or she shall again  
18 become a contributing member of the retirement system and be governed by the  
19 retirement provisions of this chapter; or

20 (2) Not to reinstate his or her membership in the retirement system, in which case his or  
21 her retirement benefits shall be suspended during the period of time he or she is restored  
22 to service. Upon cessation of such service, his or her prior retirement allowance shall be  
23 resumed.

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

1 (b) Anything in this chapter to the contrary notwithstanding, any prior service certificate  
2 on the basis of which a member's creditable service was computed at the time of his or her  
3 retirement shall be restored to full force and effect upon his or her restoration to service.  
4 Upon his or her subsequent retirement he or she shall be credited with all his or her service  
5 as a member, including service rendered after restoration to service. If he or she is restored  
6 to service on or after attaining age 50, his or her retirement benefits upon subsequent  
7 retirement shall not exceed the sum of the pension which he or she was receiving  
8 immediately prior to his or her last restoration to membership and the pension payable in  
9 respect to his or her subsequent service, except as provided in subsection (c) of this Code  
10 section, provided that if he or she has served at least two school years as a contributing  
11 member after restoration to service and if he or she reimburses the retirement system for  
12 any retirement benefits received from the retirement system during his or her retirement,  
13 plus regular interest, such person shall receive credit for any prior creditable service; and  
14 upon subsequent retirement he or she shall be credited with all his or her service as a  
15 member, which service shall all be counted in determining his or her retirement benefits  
16 upon subsequent retirement. He or she shall not be limited to the retirement benefits he or  
17 she was receiving prior to his or her last restoration to membership in the retirement  
18 system.

19 (c) The retirement benefits payable to a beneficiary who retired prior to July 1, 1961, who  
20 was restored to service and who subsequently retired on or after July 1, 1961, shall be  
21 determined under the pension provisions in effect at the time of that subsequent retirement,  
22 provided that such member completed at least one year of creditable service subsequent to  
23 such restoration to service.

24 (d) Anything in this chapter to the contrary notwithstanding, a beneficiary may elect to  
25 return to service on an hourly basis as a classroom aide, provided such service is less than  
26 full time, or as a substitute teacher without reinstating his or her membership in the system.  
27 If such election is made, he or she shall continue to receive his or her retirement benefits  
28 and any postretirement benefit adjustments granted, if any, during such part-time service.  
29 Such part-time service shall not constitute creditable service and such beneficiary shall not  
30 be entitled to a recomputation of retirement benefits upon a cessation of part-time service.

31 (e)(1) A beneficiary of this retirement system shall be deemed to be restored to service  
32 within the meaning of this Code section if, except as otherwise provided in subsection (f)  
33 of this Code section, such beneficiary is employed by an employer:

34 (A) In a position previously held by a teacher; or

35 (B) In a capacity which would normally be held by a teacher, as determined by the  
36 board of trustees, whether employed directly or indirectly, for which the compensation  
37 is greater than one-half of the beneficiary's average annual compensation used to

1 calculate his or her retirement benefit or the beneficiary's final compensation at the  
 2 time of his or her retirement, whichever is larger; provided, however, that such amount  
 3 shall be increased by any annual cost-of-living adjustment reflected in the state teacher  
 4 salary schedule.

5 (2) If an employer employs a beneficiary in any manner specified in paragraph (1) of this  
 6 subsection during the calendar month of the effective date of the beneficiary's retirement,  
 7 the employer shall reimburse the retirement system for all benefits wrongly paid to the  
 8 beneficiary.

9 (3) If an employer employs a beneficiary in any manner specified in paragraph (1) of this  
 10 subsection any time after the last day of the calendar month of the effective date of the  
 11 beneficiary's retirement, the employer shall so notify the board of trustees, stating the  
 12 beneficiary's name, salary, number of hours, whether the beneficiary is employed as a  
 13 teacher, and such other information as the board of trustees requests, and the employer  
 14 shall reimburse the retirement system for all benefits wrongly paid to the beneficiary.

15 (4) It shall be the duty of a beneficiary of this retirement system to notify an employer  
 16 of his or her status as a beneficiary prior to accepting employment with that employer.  
 17 If a beneficiary fails to so notify an employer and as a result the employer becomes  
 18 obligated to this retirement system pursuant to paragraph (2) or (3) of this subsection, the  
 19 beneficiary shall be liable to the employer for any amount the employer is obligated to  
 20 pay to this retirement system.

21 (5) If an employer who is obligated to this retirement system pursuant to paragraph (2)  
 22 or (3) of this subsection fails to pay the amount due, such amount shall be deducted from  
 23 any funds payable to the employer by the state, including without limitation the  
 24 Department of Education and the board of regents, and paid to the board of trustees of  
 25 this retirement system.

26 (f)(1) As used in this subsection, the term 'blackboard teacher' means a teacher of grades  
 27 kindergarten through 12 who has as his or her primary responsibility the academic  
 28 instruction of groups of ten or more students in a classroom for not less than four  
 29 hours a day throughout the entire contract year.

30 (2) Any other provision of this Code section to the contrary notwithstanding, a retired  
 31 member of this retirement system may return to service as a blackboard teacher if he or  
 32 she receives as compensation no more than his or her average final compensation, and  
 33 such member's benefits under this article shall not be affected; provided, however, that  
 34 such member may so remain in service not longer than five years. Any member so  
 35 restored to service shall not retain such tenure as he or she had prior to his or her  
 36 retirement. Such person shall not be considered an active member of this retirement

1 system and no employee or employer contributions shall be paid by or on his or her  
2 behalf."

3 **SECTION 2.**

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

9 **SECTION 3.**

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