

House Bill 217

By: Representatives Bannister of the 77th, Pinholster of the 15th, Davis of the 60th, Westmoreland of the 104th, Ashe of the 46th 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 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
5 service as a member, including service rendered after restoration to service. If he or she is
6 restored to service on or after attaining age 50, his or her retirement benefits upon
7 subsequent retirement shall not exceed the sum of the pension which he or she was
8 receiving immediately prior to his or her last restoration to membership and the pension
9 payable in respect to his or her subsequent service, except as provided in subsection (c) of
10 this Code section, provided that if he or she has served at least two school years as a
11 contributing member after restoration to service and if he or she reimburses the retirement
12 system for any retirement benefits received from the retirement system during his or her
13 retirement, plus regular interest, such person shall receive credit for any prior creditable
14 service; and upon subsequent retirement he or she shall be credited with all his or her
15 service as a member, which service shall all be counted in determining his or her retirement
16 benefits upon subsequent retirement. He or she shall not be limited to the retirement
17 benefits he or she was receiving prior to his or her last restoration to membership in the
18 retirement 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 and professors under the board of regents who has as his or her
 28 primary responsibility the academic instruction of students in a classroom for not less
 29 than four hours a day throughout the entire contract year.

30 (2) Any other provision of this Code section to the contrary notwithstanding, a member
 31 of this retirement system who retired on a normal service retirement may return to
 32 full-time service for no more than three years as a blackboard teacher teaching the
 33 subjects of mathematics, science, special education, and technology and such member's
 34 benefits under this article shall not be affected; provided, however, that no such person
 35 may return to service until 12 months following the date of his or her retirement. Any
 36 member so restored to service shall not retain such tenure as he or she had prior to his or
 37 her retirement. Such person shall and his or her employer shall pay employer and

1 employee contributions to this retirement system, but the member shall accrue no
2 additional benefits for such period of service."

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.