

House Bill 618

By: Representatives Porter of the 119th, Orrock of the 51st, Randall of the 107th, Skipper of the 116th, Lucas of the 105th, and others

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 create the Magistrates Retirement Fund; to define certain terms; to create
3 a board of commissioners; to provide for appointment and terms of members of the board;
4 to provide for the office of secretary-treasurer to the board; to provide for additional
5 employees; to provide for a salary and fund membership; to provide for powers and duties
6 of the board; to provide that the state auditor shall make annual audits of the fund; to provide
7 conditions for eligibility for membership; to provide for dues; to provide for an additional
8 fee on civil actions and proceedings filed in magistrate courts to be paid to the fund; to
9 provide conditions for eligibility to receive a retirement benefit; to provide for a retirement
10 benefit; to provide for benefits for surviving spouses; to provide for a refund of dues; to
11 provide for disability benefits; to provide for membership in other retirement plans; to
12 provide for a reduction of benefits in the event of insufficient funds; to provide for an
13 exemption from attachment and garnishment; to provide conditions for an effective date and
14 automatic repeal; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

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

19 "CHAPTER 25

20 ARTICLE 1

21 47-25-1.

22 As used in this chapter, the term:

23 (1) 'Average final monthly compensation' means the average monthly earnable
24 compensation of any employee during his or her highest 24 months of creditable service.

1 (2) 'Board' means the Board of Commissioners of the Magistrates Retirement Fund of
2 Georgia.

3 (3) 'Full-time chief magistrate' means a chief magistrate who regularly exercises the
4 powers of a magistrate as set forth in Code Section 15-10-2 at least 40 hours per
5 workweek.

6 (4) 'Fund' means the Magistrates Retirement Fund of Georgia.

7 (5) 'Member' means a member of the Magistrates Retirement Fund of Georgia.

8 (6) 'Secretary-treasurer' means the secretary-treasurer of the Board of Commissioners of
9 the Magistrates Retirement Fund of Georgia.

10 ARTICLE 2

11 47-25-20.

12 (a) There is created the Board of Commissioners of the Magistrates Retirement Fund of
13 Georgia. The board shall consist of seven members as follows:

14 (1) The Governor or the Governor's designee;

15 (2) An appointee of the Governor who is not the Attorney General; and

16 (3) Five full-time chief magistrates who are members of the fund.

17 (b) The members of the board provided for by paragraph (3) of subsection (a) of this Code
18 section shall be appointed by the Governor. The first such members shall be appointed by
19 the Governor to take office on July 1, 2004, for initial terms as follows: one such member
20 shall be appointed for one year; two such members shall be appointed for terms of two
21 years; and two such members shall be appointed for terms of three years. Thereafter, the
22 Governor shall appoint successors upon the expiration of the respective terms of office for
23 terms of three years. All such members shall serve until their successors are appointed and
24 qualified. Such members shall be eligible for reappointment to successive terms of office
25 as members of the board.

26 (c) The board shall elect a chairperson from among its own membership to serve for a term
27 as chairperson established by rules of the board. Four members of the board shall
28 constitute a quorum for the transaction of business. All members of the board shall serve
29 without compensation but may be reimbursed for travel and other expenses incurred by
30 them in carrying out their duties as members of the board.

31 (d) In the event of a vacancy in the membership of the board appointed by the Governor,
32 the remaining members of the board shall appoint a full-time chief magistrate who is a
33 member of the fund to fill such vacancy for the unexpired term.

34 (e) The Council of Magistrate Court Judges shall be authorized to submit the names of
35 nominees for each position on the board appointed by the Governor pursuant to this Code

1 section. The Governor may consider such nominees in making such appointments, but it
2 is specifically provided that all such appointments shall be at the sole discretion of the
3 Governor, and the Governor shall not be required to make any appointments from
4 nominees made by said Council of Magistrate Court Judges.

5 47-25-21.

6 (a)(1) There is created the office of secretary-treasurer of the board. The
7 secretary-treasurer shall be elected and appointed by the board and shall serve at the
8 pleasure of the board. His or her compensation and duties may be fixed by the board.

9 In addition to such salary, the secretary-treasurer shall receive credit for a sum of
10 \$1,250.00 per year as dues in the retirement system.

11 (2) The board or the secretary-treasurer with the approval of the board may employ
12 additional personnel to assist the board or secretary-treasurer in carrying out duties
13 provided in this chapter. The compensation and duties of any such personnel shall be
14 fixed by the board.

15 (b) The secretary-treasurer shall be paid retirement benefits upon retiring as
16 secretary-treasurer as provided in Article 5 of this chapter for a full-time chief magistrate
17 retiring with the highest benefit allowed by such article and shall be entitled to any
18 retirement option allowed by such article.

19 (c) The board shall have authority to require the secretary-treasurer to give a good and
20 sufficient surety bond in an amount to be determined by the board. The bond shall be
21 payable to the board and shall be conditioned upon the proper and faithful performance of
22 the duties of the secretary-treasurer. The secretary-treasurer shall be required to make
23 quarterly reports to the board, which reports shall show all receipts and disbursements in
24 such form and in such manner as the board may require. He or she shall likewise be
25 required quarterly to make a full account of all moneys or property coming into his or her
26 hands at any time.

27 47-25-22.

28 (a) The board is granted the following powers and duties:

29 (1) To provide for the collection of all moneys provided in this chapter;

30 (2) To pay the administrative expenses of the board;

31 (3) To hear and decide all applications for retirement benefits under this chapter;

32 (4) To make payment of all retirement benefits that may be determined to be due under
33 the terms of this chapter;

34 (5) To make all necessary rules and regulations, not inconsistent with the laws of the
35 state, for its government and for the government of the employees of the board;

1 (6) To determine and fix rules of eligibility of persons to receive retirement benefits;

2 (7) To make refunds and repayments to persons who may be entitled to receive them;

3 and

4 (8) To keep all records of its meetings.

5 (b) The board shall also have all powers necessary for the purpose of administering this
6 chapter.

7 (c)(1) Subject to the terms and limitations of this subsection, the board is authorized to
8 adopt from time to time a method or methods of providing for increases in the maximum
9 monthly retirement benefit payable under Article 5 of this chapter for persons theretofore
10 or thereafter retiring under this chapter. Such method shall be based upon:

11 (A) The recommendation of the actuary of the board of trustees;

12 (B) The maintenance of the actuarial soundness of the fund in accordance with the
13 standards provided in Code Section 47-20-10 or such higher standards as may be
14 adopted by the board; and

15 (C) Such other factors as the board deems relevant.

16 Any such increase may be uniform or may vary in accordance with the time of retirement,
17 length of service, age, nature of the retirement, or such other factors as the board of
18 trustees shall determine.

19 (2) Any provision of paragraph (1) of this subsection to the contrary notwithstanding, no
20 member who receives an annual cost-of-living benefit increase pursuant to subsection (b)
21 of Code Section 47-25-81 shall receive a benefit increase under this subsection greater
22 than 1 percent of the maximum monthly benefit then in effect; provided, however, that
23 no such member shall receive any such increase unless the members not entitled to a
24 benefit increase under subsection (b) of Code Section 47-25-81 receive a like amount
25 plus an additional increase of 2 percent of the maximum benefit then in effect; provided,
26 further, that no benefit increase shall be awarded under this subsection greater than 1.5
27 percent in any six-month period.

28 47-25-23.

29 (a) The board shall have control of all funds provided for in this chapter, and all funds
30 shall be received and disbursed from a special account to the credit of the board. The
31 expenses of administering this fund and the benefits provided for in this chapter shall be
32 paid from such funds. The board shall have authority to expend the funds in accordance
33 with this chapter.

34 (b) The board shall have full power to invest and reinvest such funds, subject to all the
35 terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of this
36 title, the 'Public Retirement Systems Investment Authority Law.' Subject to such terms,

1 conditions, limitations, and restrictions, the board shall have full power to hold, purchase,
2 sell, assign, transfer, and dispose of any of the securities and investments in which any of
3 the funds are invested, including the proceeds of any investments and any money belonging
4 to the fund.

5 (c) The board is authorized to employ agents, including, but not limited to, banks or trust
6 departments thereof, and to contract with such agents for their services as investment
7 advisers and counselors, making recommendations for investments and making
8 investments if the board so authorizes.

9 47-25-24.

10 The board may take, by gift, grant, or bequest, any money, real or personal property, or any
11 other thing of value and may hold or invest it for the use and purposes of the fund in
12 accordance with this chapter.

13 47-25-25.

14 The board shall keep permanent records of all persons who qualify to participate in the
15 benefits of this chapter, an accurate record of all payments and disbursements, and a
16 detailed record of all the acts and doings of the board.

17 47-25-26.

18 The state auditor is authorized and directed to make an annual audit of the acts and doings
19 of the board and to make a complete report of the same to the General Assembly in such
20 detail as he or she may see fit. The state auditor shall also have the right to audit the affairs
21 of the board and any of its employees at any time that he or she may see fit or at any time
22 that he or she may be requested to do so by the board or by the Governor.

23 ARTICLE 3

24 47-25-40.

25 Before any person shall be eligible to participate in the fund he or she must be serving as
26 a duly qualified and commissioned full-time chief magistrate of a county of the State of
27 Georgia or as the secretary-treasurer. Any qualified person who desires to participate in
28 the fund shall make application to the board for membership in the fund on a form to be
29 furnished by the board for that purpose, giving such information, together with verification
30 and proof thereof, as may be required by the board. Such application shall be made not
31 later than July 1, 2005, or within six months after becoming eligible for membership,
32 whichever is later.

1 47-25-41.

2 Each member shall pay into the fund as dues the sum of \$105.00 per month. Each month's
3 dues shall be paid not later than the tenth day of that month.

4 ARTICLE 4

5 47-25-60.

6 (a) In addition to all other legal costs, the sum of \$3.00 shall be charged and collected in
7 each civil matter or proceeding filed in the magistrate courts.

8 (b) The clerks of the magistrate courts shall collect the fees provided for in subsection (a)
9 of this Code section, and the fees so collected shall be remitted to the board on a quarterly
10 basis or at such time as the board may provide. It shall be the duty of the clerks to keep
11 accurate records of the amounts due the board under this Code section, and such records
12 may be audited by the board at any time. The sums remitted to the board under this Code
13 section shall be used for the purposes provided in this chapter.

14 ARTICLE 5

15 47-25-80.

16 In order for a member to be eligible to receive retirement benefits under this chapter, he or
17 she must have:

18 (1) Served as a regularly qualified and commissioned full-time chief magistrate or as the
19 secretary-treasurer for at least eight years;

20 (2) Fully complied with this chapter;

21 (3) Terminated his or her official capacity as a full-time chief magistrate or as the
22 secretary-treasurer;

23 (4) Attained the age of 60 years;

24 (5) Filed with the board his or her application for such retirement, on a form to be
25 furnished by the board, within a period of 90 days, or as soon thereafter as possible, after
26 reaching the age of 60 years or after termination of his or her official capacity as a
27 full-time chief magistrate or as the secretary-treasurer, whichever may occur last in point
28 of time; and

29 (6) Had his or her application for retirement approved by the board.

30 47-25-81.

31 (a) Any member who is approved for retirement benefits as provided in subsection (a) of
32 Code Section 47-25-80 shall be paid a monthly sum equal to 5 percent of his or her average

1 final monthly compensation for each year served by the member up to, but not exceeding,
2 a total of 20 years. No time for which dues have not been paid in accordance with Code
3 Section 47-25-41 shall be considered in determining the number of years of service.

4 (b) Any other provision of law to the contrary notwithstanding, each member who is
5 receiving a benefit shall receive an annual cost-of-living benefit increase equal to the
6 benefit a member would otherwise be entitled to receive as calculated pursuant to
7 subsection (a) of this Code section and any benefits previously received as authorized by
8 this subsection multiplied by the percentage of any increase in the Consumer Price Index
9 of the Bureau of Labor Statistics of the United States Department of Labor for all items and
10 major groups, United States city average, for the immediately preceding calendar year;
11 provided, however, that such annual percentage increase in benefits shall not exceed 2
12 percent regardless of the percentage increase in the Consumer Price Index. In any year in
13 which there is no percentage increase in such Consumer Price Index, no additional
14 retirement benefits shall be paid under this subsection.

15 47-25-82.

16 (a) As used in this Code section, the term 'surviving spouse' means the person who was
17 married to a member on the date of the member's death.

18 (b) Upon the death of any member who is then receiving retirement benefits and upon the
19 surviving spouse of such member attaining 60 years of age, said spouse shall be paid
20 spouse's benefits which shall be equal to 50 percent of the retirement benefits then being
21 paid to such member. Such benefits shall be paid for the remainder of the life of such
22 surviving spouse.

23 (c) Upon the death of any member prior to retirement, the surviving spouse of such
24 member may elect:

25 (1) To withdraw the dues paid into the retirement fund by the deceased member plus
26 interest at the rate specified by law, in which case the spouse shall be deemed to have
27 waived any right to any benefits; or

28 (2) To leave such dues in the retirement fund and to receive spouse's benefits which shall
29 be payable beginning:

30 (A) On the date of the member's death, if such member is 60 years of age or older; or

31 (B) On the date on which the surviving spouse of the deceased member reaches 60
32 years of age,

33 whichever event occurs last, and which shall be equal to 50 percent of the retirement
34 benefits which the deceased member was drawing at the time of death or, in the case of
35 a member who dies prior to his or her sixtieth birthday, which such deceased member
36 would have been entitled to receive upon reaching 60 years of age had he or she lived and

1 ceased service as a full-time chief magistrate or the secretary-treasurer on the date of his
2 or her death.

3 47-25-83.

4 (a) Any member, after ceasing to serve as a full-time chief magistrate or as the
5 secretary-treasurer and after waiving any right to retirement benefits in writing on a form
6 to be provided by the board, may apply for and be refunded all dues paid, together with 5
7 percent simple interest per annum from the end of the calendar year in which paid to the
8 end of the calendar year next preceding the application for the refund.

9 (b) Although retirement pay shall be based on Code Section 47-25-81 and nothing in this
10 Code section shall be construed to alter same, at the effective date of retirement simple
11 interest at a rate of 5 percent per annum shall be computed on all dues paid from the end
12 of the calendar year in which paid to the end of the calendar year immediately preceding
13 the date of retirement and shall be added to the total dues paid. After all retirement benefits
14 coming due under Code Section 47-25-81 have been paid and if the total thereof shall not
15 be equal to or exceed the above total of dues and interest, then the balance of such principal
16 and interest shall be paid to the estate of the deceased member.

17 (c) Upon application by the estate of any member who dies prior to retirement and who
18 does not have a surviving spouse who is eligible for benefits under Code Section 47-25-82,
19 all dues paid by such deceased member, together with 5 percent simple interest per annum
20 from the end of the calendar year in which paid to the end of the calendar year next
21 preceding the application for the refund, shall be paid to the estate of the deceased member.

22 (d) No dues may be refunded except in strict compliance with this Code section.

23 47-25-84.

24 Notwithstanding any other provisions of this chapter to the contrary, a member may retire
25 after completing four years of creditable service if he or she becomes totally and
26 permanently disabled after commencing service as a full-time chief magistrate or as the
27 secretary-treasurer. Any such member shall be entitled to receive retirement benefits in the
28 amount that he or she would receive if his or her retirement were effective at the time he
29 or she became disabled. All questions relating to the degree and nature of the total and
30 permanent disability suffered by the member shall be determined by the board.

31 47-25-85.

32 Nothing contained in this chapter shall be construed so as to prevent any person who is a
33 member of the fund from belonging to any other retirement, annuity, or benefit system.

1 47-24-86.

2 (a) If a retired member becomes employed as a full-time or part-time magistrate or chief
3 magistrate, his or her retirement benefits shall be suspended during the period of time he
4 or she holds such position, and upon cessation of such service, his or her prior retirement
5 allowance shall be resumed.

6 (b) If a retired member becomes employed as a full-time chief magistrate, he or she may
7 elect again to become a contributing member of the retirement system and be governed by
8 the retirement provisions of this chapter.

9 **ARTICLE 6**

10 47-25-100.

11 If the board determines that the funds derived from the sources provided for in this chapter
12 are not actuarially sufficient at any time to enable the board to pay in full each person
13 determined to be entitled to the benefits provided for, plus all contingent and other
14 liabilities, then a prorated percentage of such payments shall be made to each person
15 entitled thereto until the funds shall be replenished actuarially sufficiently to enable the
16 board to resume such payments in accordance with the terms of this chapter. In no event
17 shall the board or any member thereof be liable to any person for any deficiency in
18 payments made under this Code section.

19 47-25-101.

20 None of the funds provided for in this chapter shall be subject to attachment, garnishment,
21 or judgment rendered against the person entitled to receive the same. Such funds shall not
22 be assignable."

23 **SECTION 2.**

24 This Act shall become effective on July 1, 2004, only if it is determined to have been
25 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
26 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
27 become effective and shall be automatically repealed in its entirety on July 1, 2004, as
28 required by subsection (a) of Code Section 47-20-50.

29 **SECTION 3.**

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