

House Bill 366 (AS PASSED HOUSE AND SENATE)

By: Representatives Coleman of the 65<sup>th</sup>, McBee of the 74<sup>th</sup>, Cummings of the 19<sup>th</sup>, Jamieson of the 22<sup>nd</sup>, and Mills of the 67<sup>th</sup>, Post 2

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 that a teacher who was retired on  
4 a service retirement on December 31, 2003, may be employed as a classroom teacher,  
5 principal, superintendent, counselor, or librarian without having his or her benefits affected;  
6 to define certain terms; to provide that such teacher's prior service shall be used in  
7 determining salary; to provide for an employer's contribution; to provide that no such teacher  
8 shall receive additional retirement credits; to provide for related matters; to provide  
9 conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other  
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to  
14 retirement allowances, disability benefits, and spouses' benefits under the Teachers  
15 Retirement System of Georgia, is amended by striking in its entirety Code Section  
16 47-3-127.1, relating to the employment of retired teachers as full-time teachers, the period  
17 of such employment, and automatic termination, and inserting in lieu thereof the following:  
18 "47-3-127.1.

19 ~~(a) As used in this Code section, the term:~~

20 ~~(1) 'Classroom teacher' means a certified teacher of grades prekindergarten through 12~~  
21 ~~employed by the public schools who has as his or her primary responsibility the academic~~  
22 ~~instruction of students in a classroom.~~

23 ~~(2) 'Improvement specialist' means a certified teacher employed by a regional~~  
24 ~~educational service agency as defined in Code Section 20-2-270 for the purpose of~~  
25 ~~implementing an improvement plan or strategy at a qualified school.~~

1 ~~(3) 'Qualified school' means a school identified by the State Board of Education prior to~~  
2 ~~the beginning of each school year:~~

3 ~~(A) For the school years beginning in the years 2002 and 2003, as a school needing~~  
4 ~~improvement that fails for two or more consecutive years to make adequate yearly~~  
5 ~~progress pursuant to Title 1, Part A of the No Child Left Behind Act of 2001, Public~~  
6 ~~Law 107-110;~~

7 ~~(B) For the school years beginning in 2002 and 2003, as having 50 percent or more of~~  
8 ~~its students failing to meet the standard that should be achieved by students in any~~  
9 ~~subject area at any grade level as designated by the Office of Education Accountability~~  
10 ~~in Code Section 20-14-31; or~~

11 ~~(C) For school years beginning after 2003, as having received a grade of D or F on~~  
12 ~~student performance for the absolute student achievement standard or on progress on~~  
13 ~~improved student achievement as determined by the Office of Education Accountability~~  
14 ~~based on the indicators adopted under Code Section 20-14-33 or as otherwise~~  
15 ~~recommended by the office as part of an improvement strategy for the school in whole~~  
16 ~~or in part under Code Section 20-14-41.~~

17 ~~(4) 'Retired teacher' means a member of this retirement system who was retired on~~  
18 ~~December 31, 2001, on a service retirement with at least 30 years of creditable service~~  
19 ~~or after attaining the age of 60 years.~~

20 ~~(b)(1) A local school system may employ a retired teacher as a full-time classroom~~  
21 ~~teacher in a qualified school and such person shall be subject to the provisions of~~  
22 ~~subsection (c) of this Code section if the State Board of Education certifies to the board~~  
23 ~~of trustees that the local school system is employing the retired teacher in a qualified~~  
24 ~~school.~~

25 ~~(2) A regional educational service agency established pursuant to Code Section 20-2-270~~  
26 ~~may employ a retired teacher as an improvement specialist in a qualified school and such~~  
27 ~~person shall be subject to the provisions of subsection (c) of this Code section if the State~~  
28 ~~Board of Education certifies to the board of trustees that the local school system is~~  
29 ~~employing the retired teacher in a qualified school.~~

30 ~~(3) The number of retired teachers any local school system may employ under this~~  
31 ~~subsection shall not exceed 1 percent of the total number of full-time classroom teachers~~  
32 ~~employed by the school system at the end of the preceding contract year; provided,~~  
33 ~~however, that any local school system may employ at least ten retired teachers.~~

34 ~~(4) No retired teacher may be employed under the provisions of this subsection until he~~  
35 ~~or she has been retired under this retirement system for at least one month.~~

36 ~~(5) No retired teacher shall be employed under the provisions of this subsection for more~~  
37 ~~than a total of five years. Each such retired teacher shall be employed under a contract~~

1 not exceeding 12 months in duration. The certification of the State Board of Education  
2 provided for in paragraph (1) of this subsection shall be required prior to each subsequent  
3 contract. No local school system shall enter into a contract for services to be performed  
4 on or after July 1, 2008.

5 (6) The salary paid to any retired teacher employed as a classroom teacher under this  
6 Code section shall be commensurate with the position and the individual's qualifications  
7 and experience. Teachers paid under this Code section shall be reported to the state at  
8 the certificate and experience level at which the teacher is assigned. No state funds for  
9 health insurance shall be earned for the requested state salary amount.

10 (7) A public school system employing a retired teacher subject to this subsection shall  
11 pay all employer contributions to this retirement system as otherwise provided in this  
12 chapter; provided, however, that no such retired teacher shall receive any further  
13 creditable service as a result of such employment and shall in all ways be considered by  
14 this retirement system solely as a retired teacher.

15 (8) A public school system employing a retired teacher pursuant to this subsection shall  
16 notify the board of trustees of this retirement system in writing as soon as practicable, but  
17 not later than the commencement of employment, providing such information as the  
18 board deems proper.

19 (c) Any other provision of this article to the contrary notwithstanding, a retired teacher  
20 may return to service as a classroom teacher for a total of not more than five years if he or  
21 she is employed solely under the conditions contained in this Code section, and such  
22 member's benefits under this article shall not be affected; provided, however, that the  
23 provisions of this subsection shall not apply to service performed on or after July 1, 2008.  
24 Any such retired teacher so employed shall not retain any tenure as he or she had prior to  
25 his or her retirement, shall not be considered an active member of this retirement system,  
26 shall not accrue any additional benefits, shall not pay employee contributions to this  
27 retirement system, and shall not be eligible for employment benefits, including, without  
28 limitation, life and health insurance, by virtue of such employment. The provisions of this  
29 subsection shall not become a part of the employment contract and shall be subject to  
30 future legislation. Any teacher subject to this subsection may elect at any time to suspend  
31 his or her retirement benefits and become a regular full-time teacher as otherwise provided  
32 in this chapter, but no service accrued under this subsection shall under any circumstances  
33 be used to calculate a benefit under this chapter.

34 (d) Any public school system which employs a retired teacher of this retirement system  
35 and which fails to comply with the provisions of this subsection, and the retired teacher so  
36 employed, shall be subject to all other provisions of this chapter, including, without  
37 limitation, Code Section 47-3-127.

1 ~~(e) This Code section shall be automatically repealed on July 1, 2008, and no person shall~~  
2 ~~have any rights pursuant to the provisions of this Code section on and after that date.~~

3 (a) As used in this Code section, the term:

4 (1) 'Classroom teacher' means a certified teacher of pre-kindergarten through grade 12  
5 employed by the public schools who has as his or her primary responsibility the academic  
6 instruction of students in a classroom.

7 (2) 'Retired teacher' means a member of this retirement system who was retired on a  
8 service retirement on December 31, 2003.

9 (b)(1) A local school system may employ a retired teacher as a full-time classroom  
10 teacher, principal, superintendent, counselor, or librarian and such person shall be subject  
11 to the provisions of subsection (c) of this Code section; provided, however, that a member  
12 who retired as a principal may not be employed as a principal in the same school in which  
13 he or she was so employed prior to his or her retirement, and a member who retired as a  
14 school superintendent may not be employed as a school superintendent by the same  
15 school system in which such person was so employed prior to his or her retirement.

16 (2) The salary paid to any retired teacher employed under this Code section shall be  
17 commensurate with the position and the individual's qualifications. Teachers paid under  
18 this Code section shall be reported to the state at the certificate and experience level at  
19 which the teacher is assigned. No such retired teacher shall receive any further creditable  
20 service as a result of such employment and shall in all ways be considered by this  
21 retirement system solely as a retired teacher.

22 (3) A public school system employing a retired teacher subject to this subsection shall  
23 pay all employer contributions to this retirement system as otherwise provided in this  
24 chapter; provided, however, that no such retired teacher shall receive any further  
25 creditable service as a result of such employment and shall in all ways be considered by  
26 this retirement system solely as a retired teacher.

27 (c) Any other provision of this article to the contrary notwithstanding, a retired teacher  
28 may return to service as a classroom teacher, principal, superintendent, counselor, or  
29 librarian and such member's benefits under this article shall not be affected. Any such  
30 retired teacher so employed shall not be considered an active member of this retirement  
31 system and shall not accrue any additional benefits or further creditable service as a result  
32 of such employment and shall in all ways be considered by this retirement system solely  
33 as a retired teacher. The provisions of this subsection shall not become a part of the  
34 employment contract and shall be subject to future legislation."

1 **SECTION 2.**

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

7 **SECTION 3.**

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