

House Bill 534

By: Representative Benton of the 31<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 7 of Title 47 of the Official Code of Georgia Annotated, relating to the  
2 Georgia Firefighters' Pension Fund, so as to change a certain definition; to change references  
3 to the secretary-treasurer of such retirement fund to read executive director; to remove the  
4 management fee limitation on mutual fund investments; to increase the criminal penalty for  
5 defrauding the fund; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 7 of Title 47 of the Official Code of Georgia Annotated, relating to the Georgia  
9 Firefighters' Pension Fund, is amended by striking in its entirety paragraph (2) of Code  
10 Section 47-7-1, relating to definitions, and inserting in lieu thereof the following:

11 "(2) 'Fire department' means a full-time fire department or volunteer fire department  
12 which satisfies the following criteria:

13 (A) The fire department is certified by the ~~superintendent of the Georgia Fire Academy~~  
14 Georgia Firefighter Standards and Training Council as provided in Chapter 3 of Title  
15 25;

16 (B) The public fire suppression facilities of the fire department are ratable not less  
17 favorably than a class eight rating under standards set forth in the Fire Suppression  
18 Rating Schedule, Section I, Public Fire Suppression, Edition 6-80, Copyright 1980,  
19 published by the Insurance Services Office, a rating organization licensed by the  
20 Commissioner of Insurance, which schedule is maintained on file with the  
21 Commissioner of Insurance as required by general law and which has not been  
22 disapproved by the Commissioner, or less than a rating which the board by regulation  
23 determines is substantially equivalent under rating standards published by a rating  
24 organization licensed by the Commissioner of Insurance performing similar rating  
25 functions which standards are maintained on file with the Commissioner of Insurance  
26 and which have not been disapproved by the Commissioner.

1 The board may require annual certification by the chief of a fire department of the  
 2 satisfaction of such requirements as a condition to the eligibility of firefighters and  
 3 volunteer firefighters to become members of the fund to obtain creditable service with  
 4 the fund."

5 **SECTION 2.**

6 Said chapter is further amended by striking in its entirety Code Section 47-7-21, relating to  
 7 creation of the office of secretary-treasurer of the board, appointment of the  
 8 secretary-treasurer, compensation, and bond, and inserting in lieu thereof the following:

9 "47-7-21.

10 There is created the office of ~~secretary-treasurer~~ executive director of the Georgia  
 11 Firefighters' Pension Fund. The ~~secretary-treasurer~~ executive director shall be named by  
 12 the board and shall serve at the pleasure of the board. ~~His~~ The compensation of the  
 13 executive director shall be fixed by the board. He or she shall be bonded by a corporate  
 14 surety in such amount as the board shall determine to be sufficient. The cost of such bond  
 15 shall be paid by the fund."

16 **SECTION 3.**

17 Said chapter is further amended by striking in its entirety subsection (d) of Code Section  
 18 47-7-23, relating to powers and duties of the board, generally, and inserting in lieu thereof  
 19 the following:

20 "(d) The board of trustees may invest, in certified or uncertified form, in securities of any  
 21 open-end management type investment company or investment trust registered with the  
 22 ~~Federal~~ United States Securities and Exchange Commission under the Investment  
 23 Company Act of 1940, as now or hereafter amended, if such investment company or  
 24 investment trust has been organized for not less than ten years or has assets of not less than  
 25 \$200 million at the date of investment; ~~provided, however, that the board shall not be~~  
 26 ~~authorized to pay any such investment company or investment trust a management fee in~~  
 27 ~~excess of 0.05 percent of the funds invested."~~

28 **SECTION 4.**

29 Said chapter is further amended by striking in its entirety subsection (b) of Code Section  
 30 47-7-61, relating to tax on premiums charged by fire insurance companies for certain classes  
 31 of coverage, exclusions, and penalty for failure to report and pay such tax, and inserting in  
 32 lieu thereof the following:

33 "(b) If a fire insurance company, corporation, or association knowingly or willfully fails  
 34 to file a return or pay the taxes imposed by this Code section, the ~~secretary-treasurer~~

1 executive director shall report such delinquency to the Commissioner of Insurance. The  
 2 Commissioner of Insurance is authorized and directed upon receipt of such report, after  
 3 notice and hearing, immediately to cancel such delinquent's license to do business within  
 4 this state."

#### 5 **SECTION 5.**

6 Said chapter is further amended by striking in its entirety subsection (b) of Code Section  
 7 47-7-101, relating to eligibility for benefits, withdrawal of application for benefits before  
 8 approval, and reemployment, and inserting in lieu thereof the following:

9 "(b) Any person who again becomes a paid employee of a fire department or of a volunteer  
 10 fire department after having been placed on retirement or disability under Code Section  
 11 47-7-100 or 47-7-102 shall immediately notify the ~~secretary-treasurer~~ executive director  
 12 of such reemployment. Retirement benefits being paid to such person shall be suspended  
 13 as of the date of such reemployment and shall remain suspended until such reemployment  
 14 terminates at which time the payment of retirement benefits shall be resumed in the amount  
 15 to which the person was eligible at the time of reemployment. Disability benefits being  
 16 paid to any such person shall be terminated as of the date of such reemployment. Within  
 17 six months of the commencement of reemployment, any such person who at the time of  
 18 application otherwise meets the requirements for membership may, by application in the  
 19 manner provided by this chapter, become a member of the fund. In the event the  
 20 application is granted, such member, upon meeting the requirements provided by law, shall  
 21 be entitled to all benefits provided for in Code Section 47-7-100, but the amount of  
 22 monthly retirement or disability benefits payable to such member shall not exceed the  
 23 amount of the monthly benefit which would be payable to such member had such  
 24 subsequent retirement become effective at the time of the member's prior retirement, unless  
 25 after such reemployment the member shall have acquired not less than seven  
 26 years' creditable service as a member of the fund."

#### 27 **SECTION 6.**

28 Said chapter is further amended by striking in its entirety subsection (a) of Code Section  
 29 47-7-103, relating to benefits payable to a named beneficiary upon death of a member before  
 30 benefits have commenced or before benefits equal to the member's dues have been paid, and  
 31 inserting in lieu thereof the following:

32 "(a) In the event of the death of a member of the fund who is in good standing and who has  
 33 not commenced receiving any benefits under this chapter, the designated beneficiary of  
 34 such deceased member shall be entitled to be paid the amount of \$5,000.00, upon making  
 35 proper application to the ~~secretary-treasurer~~ executive director of the fund. Such

1 application shall be accompanied by a certified copy of the death certificate of the deceased  
2 member and such other information as may be required by the board."

3 **SECTION 7.**

4 Said chapter is further amended by striking in its entirety Code Section 47-7-104, relating  
5 to benefits payable to volunteer firefighters erroneously found to be eligible for such benefits,  
6 and inserting in lieu thereof the following:

7 "47-7-104.

8 Any other provisions of law to the contrary notwithstanding:

9 (1) Any person who served as a volunteer firefighter prior to March 3, 1955, and who  
10 began receiving retirement benefits at a later date from the fund, based on the board of  
11 trustees' belief that such person was eligible for such benefits, but whose retirement  
12 benefits were ceased or canceled by the board of trustees based upon its subsequent  
13 realization that such person was not in fact eligible for such benefits; or

14 (2) Any person who left service as a volunteer firefighter after receiving written notice  
15 from the ~~secretary-treasurer~~ executive director of the fund that he was eligible for  
16 retirement benefits except for not having reached the age of 60 years, which written  
17 notice was later determined by the board to be erroneous,

18 shall be eligible to receive the retirement benefits under this chapter in the same manner  
19 as if such service had been rendered in a class eight or better fire department, regardless  
20 of the fact that such service was not rendered in a class eight or better fire department."

21 **SECTION 8.**

22 Said chapter is further amended by striking in its entirety subsection (a) of Code Section  
23 47-7-124, relating to disposition of funds abandoned by members separated from the service,  
24 notice, and limitation on asserting certain claims, and inserting in lieu thereof the following:

25 "(a) No claim shall be made against the fund for benefits or the return of contributions after  
26 the lapse of seven years from the date on which the ~~secretary-treasurer~~ executive director  
27 of the fund shall have mailed by first-class mail to the last known address of the firefighter  
28 or volunteer firefighter or other person eligible therefor, as such address is reflected by the  
29 records of the fund, a written notice that the firefighter or volunteer firefighter or other  
30 eligible person is or may be eligible for such benefits or return of contributions; and, in the  
31 event any claim for benefits or the return of contributions is barred in accordance with this  
32 subsection, the amounts thereof shall be the property of the Georgia Firefighters' Pension  
33 Fund. The bar period prescribed by this subsection shall not begin to run with respect to  
34 a firefighter or volunteer firefighter on leave of absence who has elected to leave his  
35 contributions in the fund until the failure of the firefighter or volunteer firefighter to

1 provide written confirmation of his election to remain on leave of absence within 60 days  
2 of a not more frequent than biennial request for such confirmation mailed to the last known  
3 address of such firefighter or volunteer firefighter, as such address is reflected by the  
4 records of the fund."

5 **SECTION 9.**

6 Said chapter is further amended by striking in its entirety subsection (a) of Code Section  
7 47-7-126, relating to penalty for false statements or falsified records and correction of errors  
8 by the board, and inserting in lieu thereof the following:

9 "(a) Any person who knowingly makes any false statements or falsifies or permits to be  
10 falsified any records of the fund in an attempt to defraud the fund shall be guilty of a  
11 ~~misdemeanor~~ felony and, upon conviction thereof, shall be punished by a fine not to exceed  
12 ~~\$500.00~~ \$5,000.00, imprisonment for up to ~~12 months~~ five years, or both."

13 **SECTION 10.**

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