

The House Committee on Retirement offers the following substitute to HB 460:

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 make numerous changes throughout said title to ensure that Georgia's
3 public retirement systems are in compliance with the federal Internal Revenue Code and
4 regulations promulgated thereunder; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
8 amended by striking in its entirety Code Section 47-1-61, relating to eligibility of a veteran
9 to establish creditable service and period of qualified service, and inserting in lieu thereof the
10 following:

11 "47-1-61.

12 Any qualified returning veteran shall be eligible to establish creditable service with his or
13 her retirement system or fund for not more than five years of qualified service by
14 complying with the provisions of this article; provided, however, that such five-year period
15 shall be extended by any period of mandatory service imposed by the uniformed service
16 recognized by paragraph (4) of subsection (C) of Section 4312 of federal Public Law
17 103-353, the Uniformed Service Employment and Reemployment Rights Act of 1994.
18 Notwithstanding any provisions of the law to the contrary, contributions, benefits, and
19 service credits with respect to qualified uniformed service will be provided under each
20 retirement or pension system in accordance with Section 414(u) of the federal Internal
21 Revenue Code."

22 **SECTION 2.**

23 Said title is further amended by inserting at the end of Chapter 1, relating to general
24 provisions, a new article to read as follows:

1 "ARTICLE 6

2 47-1-80.

3 Notwithstanding any other provision of this title to the contrary, distributions from any
4 public retirement or pension system shall conform to the regulations issued under Section
5 401(a)(9) of the federal Internal Revenue Code as applicable to a governmental plan within
6 the meaning of Section 414(d) of the federal Internal Revenue Code and shall be
7 implemented in accordance with the grandfathering provisions of such regulations
8 applicable to annuity option distributions in effect on April 17, 2001.

9 47-1-81.

10 Notwithstanding any other provisions of this title to the contrary that would otherwise limit
11 a person's election under this Code section, a member of a retirement or pension system
12 subject to this title may elect, at the time and in the manner prescribed by the board of
13 trustees of such system, to have any portion of an eligible rollover distribution, as such
14 term is defined in Section 402(c) of the federal Internal Revenue Code, paid directly to an
15 eligible retirement plan, as such term is defined in Section 402(c) of the federal Internal
16 Revenue Code, specified by the person in a direct rollover.

17 47-1-82.

18 Notwithstanding any other provisions of this title to the contrary, the maximum benefit
19 payable to any active or retired member or beneficiary of a retirement or pension system
20 subject to this title shall be limited to such extent as may be necessary to conform to the
21 requirements of Section 415 of the federal Internal Revenue Code for a qualified retirement
22 plan."

23 **SECTION 3.**

24 Said title is further amended by striking in its entirety paragraph (13) of Code Section 47-2-1,
25 relating to definitions relative to the Employees' Retirement System of Georgia, and
26 inserting in lieu thereof the following:

27 "(13) 'Creditable service' means prior service plus membership service and any other
28 service recognized as creditable service under this chapter."

29 **SECTION 4.**

30 Said title is further amended by striking in its entirety paragraph (16) of said Code Section
31 47-2-1 and inserting in lieu thereof the following:

32 "(16) 'Employee' means:

1 (A) Any regularly classified worker, elected or appointed officer, or employee of a
 2 state agency or any employee of a county, city-county, or city board, which agency or
 3 board is under a state merit system of personnel administration, including a merit
 4 system for employees of the Department of Public Safety;

5 (B) Any employee or officer of any other department, bureau, board, institution, or
 6 commission of the state:

7 (i) Which department, bureau, board, or commission operates under a merit system
 8 of personnel administration;

9 (ii) Which department operates under a tenure system as established by law; or

10 (iii) Which department, bureau, board, or commission becomes eligible for inclusion
 11 in the retirement system by Act of the General Assembly;

12 who receives payment for performance of personal services from the state or any
 13 department, bureau, institution, board, or commission of the state or from a county,
 14 city-county, or city board and who is employed in a position normally requiring actual
 15 performance of duty during not less than nine months of the year. 'Employee' shall not
 16 include members of the Teachers Retirement System of Georgia, ~~or~~ members of the
 17 Public School Employees Retirement System, any person on the payroll of a third party
 18 with whom an employer has contracted for the provision of such person's services, or
 19 any person classified by an employer as other than a common law employee for federal
 20 tax purposes, even if a court, tribunal, or administrative agency determines that such
 21 person is a common law employee and not an independent contractor for federal tax
 22 purposes;

23 (C) Any other provisions of law to the contrary notwithstanding, any and all civilians
 24 who are employed in or with the Army National Guard of Georgia and the Air National
 25 Guard of Georgia shall, upon establishment of a merit system for such civilian
 26 employees and upon the approval of the adjutant general, be entitled to the retirement
 27 allowances, benefits, and privileges provided by this chapter, notwithstanding that such
 28 employees may be paid by federal funds. No credit shall accrue to such civilian
 29 employees for any service rendered prior to the effective date of coverage under the
 30 retirement system. The adjutant general is authorized to make such arrangements and
 31 agreements as may be necessary or proper in order to effect deductions from the
 32 salaries or wages of such civilian employees as may be necessary or proper in the
 33 administration of the retirement system as to such civilian employees. It is the intent of
 34 the General Assembly that such persons be included in this definition only if federal
 35 funds are available for payment of employer contributions for such employees and
 36 other expenses of participation."

1 from contributions made by employers and from which are paid all such pensions and other
2 benefits, as follows:

3 (1) Employer contributions shall consist of a percentage of the earnable compensation
4 of members, to be known as the 'normal cost contribution,' and an additional percentage
5 of such earnable compensation, to be known as the 'unfunded accrued liability
6 contribution.' These contributions shall be borne by appropriations from state and federal
7 funds. The percentage rate of each portion of the employer contribution shall be fixed on
8 the basis of the liabilities of the retirement system, as shown by actuarial valuation, as
9 provided for in subsection (b) of Code Section 47-2-26; subject to the provisions of Code
10 Section 47-20-10.

11 ~~(2) The normal contribution rate shall be determined after each actuarial valuation. Until~~
12 ~~all accrued liability contributions have been completed, the normal contribution rate shall~~
13 ~~be based on a uniform and constant percentage of the earnable compensation of the~~
14 ~~average new entrant member, which percentage, if contributed on the basis of his~~
15 ~~prospective earnable compensation throughout his entire period of active service, would~~
16 ~~be sufficient to pay any pension payable on his account. For purposes of computing the~~
17 ~~normal contribution rate any appropriate tables last adopted by the board of trustees shall~~
18 ~~be used, and interest shall be computed at the regular rate. After all accrued liability~~
19 ~~contributions have been completed, the normal contribution rate shall be the rate of the~~
20 ~~earnable compensation of all members, which rate shall be obtained by deducting from~~
21 ~~the total liabilities of the pension accumulation fund the amount of the funds in hand~~
22 ~~standing to the credit of the pension accumulation fund and dividing the difference by an~~
23 ~~amount equal to 1 percent of the present value of the prospective future earnable~~
24 ~~compensation of all members;~~

25 ~~(3) Immediately following the first actuarial valuation, the accrued liability contribution~~
26 ~~rate shall be computed as the percentage rate of the total earnable compensation of all~~
27 ~~members, which rate is equivalent to 4 percent of the total liability of the pension~~
28 ~~accumulation fund in excess of the funds in hand standing to the credit of the pension~~
29 ~~accumulation fund, which excess liability would not be discharged by the normal~~
30 ~~contributions payable with respect to members during the remainder of their active~~
31 ~~service. The amount placed to the credit of each annual accrued liability contribution~~
32 ~~account shall be at least 3 percent greater than the amount placed to the credit of each~~
33 ~~such account in the previous year; and in no event shall all the accrued liability~~
34 ~~contributions in any year be less than the amount which, when combined with all the~~
35 ~~normal contributions and the amount of funds in hand standing to the credit of the~~
36 ~~pension accumulation fund, will provide all payments and transfers from the pension~~
37 ~~accumulation fund as required by this subsection during the year then current. The~~

1 ~~accrued liability contribution shall be discontinued as soon as the amount of the funds~~
 2 ~~standing to the credit of the pension accumulation fund equals the present value, as~~
 3 ~~actuarially computed and approved by the board of trustees, of the total liabilities of the~~
 4 ~~pension accumulation fund less the present value of the normal contributions to be made~~
 5 ~~at the normal contribution rate then in force with respect to all persons who are at that~~
 6 ~~time members.~~

7 (b) All interest and dividends earned on the funds of the retirement system shall be
 8 credited to the pension accumulation fund. Once each year the board of trustees shall
 9 transfer from the pension accumulation fund to the annuity savings fund such amounts as
 10 are sufficient to allow regular interest on the balances of the individual accounts of
 11 members in the annuity savings fund."

12 SECTION 8.

13 Said title is further amended by striking in its entirety Code Section 47-2-57, relating to
 14 certification of normal and unfunded accrued liability contribution rates to employers and
 15 provision in employer's budget for employer contributions, and inserting in lieu thereof the
 16 following:

17 "47-2-57.

18 On or before June 1 of each year, the normal cost and unfunded accrued liability
 19 contribution rates, as determined on the basis of the last actuarial valuation, shall be
 20 certified by the board of trustees to the director or chief administrative officer of each
 21 employer having members in its employ. Each such employer shall make provision in its
 22 annual budget for funds with which to pay to the board of trustees an amount equal to the
 23 normal cost contributions and the unfunded accrued liability contributions on the earnable
 24 compensation of all contributing members under their administration and for an additional
 25 amount as expense for the operation of the retirement system."

26 SECTION 9.

27 Said title is further amended by striking in its entirety paragraph (6) of Code Section 47-3-1,
 28 relating to definitions relative to the Teachers Retirement System of Georgia, and inserting
 29 in lieu thereof the following:

30 "(6) 'Average final compensation' means the average annual earnable compensation of
 31 a teacher during the ~~last five years of creditable service or, if he has had less than five~~
 32 ~~years of creditable service, his average annual earnable compensation during his total~~
 33 ~~creditable service~~ two consecutive years of membership service producing the highest
 34 such average."

SECTION 10.

Said title is further amended by striking in its entirety paragraph (10) of said Code Section 47-3-1 and inserting in lieu thereof the following:

"(10) 'Creditable service' means prior service plus membership service and any other service established under this chapter."

SECTION 11.

Said title is further amended by inserting immediately following paragraph (25) of said Code Section 47-3-1 the following:

"(25.1) 'Salary' shall have the same meaning as earnable compensation."

SECTION 12.

Said title is further amended by striking in its entirety subsection (a) of Code Section 47-3-41, relating to the annuity savings fund generally, and inserting in lieu thereof the following:

"(a) The annuity savings fund shall be the fund in which shall be accumulated the contributions deducted from the compensation of members to provide for their annuities. Contributions to and payments from the annuity savings fund shall be made as follows:

(1) After the commencement date, each employer shall cause to be deducted from the salary of each member for each and every payroll period a percentage of the member's earnable compensation as determined by the board of trustees which shall be not less than 5 nor more than 6 percent; but no such deduction shall be made from the compensation of a member after the close of the school, fiscal, or contract year in which the member has attained age 65 and has completed 40 or more years of creditable service. In determining the amount earnable by a member in a payroll period, the employer may consider the annual rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period. The employer may omit the deduction from compensation for any period which is less than a full payroll period, if a teacher was not a member on the first day of the payroll period. In order to facilitate the making of deductions, the employer may modify the deductions required of any member by an amount not to exceed one-tenth of 1 percent of the annual compensation, on the basis of which such deductions are to be made. Each employer shall immediately pay the amount deducted to the board of trustees, in such manner as the board of trustees shall prescribe, which amount shall be credited by the board of trustees to the individual accounts in the annuity savings fund of the member from whose compensation the deductions were made. Beginning July 1, 1987, the employee contributions required under this paragraph shall be paid as provided in Code Section 47-3-41.1;

1 (2) Notwithstanding any other provisions of this subsection, at the close of any school,
2 fiscal, or contract year in which a member has completed 40 or more years of creditable
3 service, such member may elect in writing to cease making contributions to the retirement
4 system. If such election is made, such teacher shall notify his employer and the board of
5 trustees in such manner as the board of trustees shall prescribe. After giving the required
6 notice, the employer shall not thereafter deduct, and the employee shall not thereafter be
7 allowed to make, contributions to the retirement system from the salary or compensation
8 of such member;

9 (3) Any other provision of this or any other law to the contrary notwithstanding, a
10 member who has attained age 65 and who has completed 40 or more years of creditable
11 service may elect to continue to make contributions to the retirement system during such
12 continuous period of time as the member continues in service. He shall notify his
13 employer and the board of trustees of such election in such manner as the board of
14 trustees shall provide. Any member who has discontinued making contributions to the
15 retirement system because he has attained age 65 and has 40 years of creditable service
16 and who has continued in service may remit contributions to the board of trustees at the
17 rate required by law and under terms and regulations prescribed by the board of trustees
18 on all earnable compensation received by the member since deductions were
19 discontinued. Contributions made under this paragraph shall entitle the member to
20 creditable service for such period, but only for the purpose of determining average
21 compensation over the highest consecutive years, used in the calculations of the
22 retirement benefits of such member; and

23 (4) Employer deductions shall be made, notwithstanding that the minimum compensation
24 provided for by law for any member shall be reduced thereby. Every member shall be
25 deemed to consent and agree to the deductions and payment of salary or compensation,
26 less such deductions, shall be a full and complete discharge and acquittance of all claims
27 and demands whatsoever for the services rendered by such person during the period
28 covered by such payment, except as to the benefits under this chapter;

29 ~~(5) In addition to the contributions deducted from the compensation of members under~~
30 ~~paragraphs (1) and (3) of this subsection, any member, subject to the approval of the~~
31 ~~board of trustees and such conditions as the board of trustees may prescribe, (A) may~~
32 ~~redeposit in the annuity savings fund by means of a single payment or by an increased~~
33 ~~rate of contribution an amount equal to the total amount previously withdrawn from that~~
34 ~~fund or any part of such amount or (B) may deposit in that fund by means of a single~~
35 ~~payment or by an increased rate of contribution an amount computed to be sufficient to~~
36 ~~purchase an additional annuity which, together with his prospective retirement allowance,~~
37 ~~will provide for him a total retirement allowance of not more than one-half of his average~~

1 ~~final compensation at retirement, but not exceeding the retirement allowance otherwise~~
 2 ~~payable to him on retirement at age 65. Such additional amounts so deposited shall~~
 3 ~~become a part of his accumulated contributions, provided that upon retirement such~~
 4 ~~amounts shall be treated as excess contributions returnable to the member as an annuity~~
 5 ~~of equivalent actuarial value and shall not be considered in computing the pension."~~

6 SECTION 13.

7 Said title is further amended by striking in its entirety Code Section 47-3-43, relating to the
 8 pension accumulation fund generally, and inserting in lieu thereof the following:

9 "47-3-43.

10 The pension accumulation fund shall be the fund in which shall be held the reserves on all
 11 annuities in force and from which shall be paid all annuities and all benefits in lieu of
 12 annuities under this chapter. If a beneficiary is restored to membership, his annuity reserve
 13 shall be transferred from the pension accumulation fund to the annuity savings fund and
 14 credited to his individual account therein. The pension accumulation fund shall also be the
 15 fund in which shall be accumulated all reserves for the payment of all pensions and other
 16 benefits payable from contributions made by employers and from which shall be paid all
 17 such pensions and other benefits, as follows:

18 (1) The contribution of employers of members shall consist of a percentage of the
 19 earnable compensation of members to be known as the normal cost contribution and an
 20 additional percentage of such earnable compensation to be known as the unfunded
 21 accrued liability contribution. The rate of such contribution shall be fixed on the basis of
 22 the liabilities of the retirement system as shown by actuarial valuation, as provided for
 23 in Code Section 47-3-23, subject to the provisions of Code Section 47-20-10;

24 ~~(2) The normal contribution rate shall be determined after each actuarial valuation. Until~~
 25 ~~all accrued liability contributions have been completed, the normal contribution rate shall~~
 26 ~~be determined on the basis of regular interest and the tables last adopted by the board of~~
 27 ~~trustees, as the uniform and constant percentage of the earnable compensation of the~~
 28 ~~average new entrant member which, if contributed on the basis of his prospective~~
 29 ~~earnable compensation throughout his entire period of active service, would be sufficient~~
 30 ~~to provide for the payment of any pension payable on his account. After all accrued~~
 31 ~~liability contributions have been completed, the normal contribution rate shall be the rate~~
 32 ~~of the earnable compensation of all members obtained by deducting from the total~~
 33 ~~liabilities of the pension accumulation fund the amount of the funds in hand standing to~~
 34 ~~the credit of the pension accumulation fund, and dividing the remainder by 1 percent of~~
 35 ~~the present value of the prospective future earnable compensation of all members;~~

1 ~~(3) Immediately following the actuarial valuation of June 30, 1961, the percentage~~
 2 ~~accrued liability contribution rate shall be computed as the rate of the total earnable~~
 3 ~~compensation of all members which is equivalent to 4 percent of the total liability of the~~
 4 ~~pension accumulation fund in excess of the funds in hand standing to the credit of the~~
 5 ~~pension accumulation fund and which is not dischargeable by the normal contributions~~
 6 ~~payable in respect to members on that date, during the remainder of their active service.~~
 7 ~~Thereafter, the amount of funds for the credit of each annual accrued liability contribution~~
 8 ~~account shall be at least 3 percent greater than the amount placed to the credit of the~~
 9 ~~accrued liability contribution account in the previous year, on the basis of the rate~~
 10 ~~determined as of June 30, 1961; and in no event shall the accrued liability contribution~~
 11 ~~in any year be less than the amount which, when combined with the normal contributions~~
 12 ~~and the amount of funds in hand standing to the credit of the pension accumulation fund,~~
 13 ~~will provide all payments and transfers from the pension accumulation fund as required~~
 14 ~~by this Code section during the year then current. The accrued liability contribution shall~~
 15 ~~be discontinued as soon as the amount of the funds standing to the credit of the pension~~
 16 ~~accumulation fund equals the present value, as actuarially computed, and approved by the~~
 17 ~~board of trustees, of the total liabilities of the pension accumulation fund less the present~~
 18 ~~value of the normal contributions to be made at the normal contribution rate then in force~~
 19 ~~in respect to all persons who are members at that time;~~

20 ~~(4)~~(2) The state's share of employer contributions, which is to be borne by appropriation
 21 from the state, payable to the board of trustees, shall consist of the normal cost and
 22 unfunded accrued liability contributions based on the part of the earnable compensation
 23 of members payable from funds of the Board of Regents of the University System of
 24 Georgia or other funds of the state, but excluding any appropriations made to the State
 25 Board of Education, at the rates determined under this Code section. The balance of the
 26 cost for pensions, consisting of the normal cost and unfunded accrued liability
 27 contributions at the rates determined under this Code section, shall be borne by the
 28 employers having contributing members in their employ, including local units of
 29 administration for all members in their employ; and each such employer shall pay, from
 30 any funds available to such employer expressly including funds derived from the state
 31 under Article 6 of Chapter 2 of Title 20, the 'Quality Basic Education Act,' such
 32 contributions to the board of trustees, immediately upon coming due, which contributions
 33 shall be credited to the pension accumulation fund; and

34 ~~(5)~~(3) The compensation of a member referred to in this Code section shall include any
 35 compensation derived from grants and contracts made by outside agencies with an
 36 employer. Such compensation is subject to the employer contribution rate. The outside
 37 agencies supplying the grants or entering into the contracts shall pay the applicable

1 employer contributions rate to the employer, who shall pay such contribution to the board
2 of trustees."

3 **SECTION 14.**

4 Said title is further amended by striking in its entirety Code Section 47-3-45, relating to
5 obligations of the pension accumulation fund and permissible uses of the assets of the
6 pension accumulation fund and of income, interest, and dividends, and inserting in lieu
7 thereof the following:

8 "47-3-45.

9 The maintenance of annuity reserves and pension reserves of the retirement system, the
10 crediting of regular interest to the annuity savings fund, and the payment of all pensions,
11 annuities, retirement allowances, refunds, and other benefits granted under this chapter
12 shall be obligations of the pension accumulation fund, provided the payments of such other
13 benefit do not adversely affect the qualified status of the retirement system under Section
14 401(a) of the federal Internal Revenue Code. All assets of the pension accumulation fund
15 and all income, interest, and dividends derived from deposits and investments shall be used
16 for the payment of such obligations and for no other purpose."

17 **SECTION 15.**

18 Said title is further amended by striking in its entirety Code Section 47-3-128, relating to
19 payment of accumulated contributions upon request after termination of membership and
20 payment of taxable portion to eligible retirement plan, and inserting in lieu thereof the
21 following:

22 "47-3-128.

23 If a person's membership ceases other than by death or retirement from this retirement
24 system, the amount of his or her accumulated contributions to this retirement system shall
25 be payable to the member upon such person's request after the date the person has
26 terminated employment with a school system, institution of higher learning, or agency
27 covered by this retirement system. The board of trustees ~~may~~ shall allow a person
28 requesting such payment of accumulated contributions to elect to have the taxable portion
29 of such payment made directly to an eligible retirement plan as defined in the federal
30 Internal Revenue Code."

31 **SECTION 16.**

32 Said title is further amended by striking in its entirety paragraph (20) of Code Section 47-4-1,
33 relating to definitions relative to the Public School Employees Retirement System, and
34 inserting in lieu thereof the following:

1 "(a) All of the assets of the system shall be credited, according to the purpose for which
 2 they are held, to either the members' account or the accumulation account. The benefits
 3 under this chapter and all administrative expenses shall be paid from such accounts."

4 SECTION 19.

5 Said title is further amended by striking in its entirety subsection (a) of Code Section
 6 47-6-42, relating to election as to coverage, required coverage under the Georgia Legislative
 7 Retirement System, state contributions, and preservation of rights and privileges, and
 8 inserting in lieu thereof the following:

9 "(a) Any other provisions of this or any other law to the contrary notwithstanding, each
 10 member of the General Assembly serving as such on April 13, 1979, may elect to withdraw
 11 as a member of the Employees' Retirement System of Georgia and become a member of
 12 the Georgia Legislative Retirement System or may elect not to be a member of either
 13 system. Such election must be made prior to January 12, 1981, and once made shall be
 14 irrevocable as long as such person is a member of the General Assembly. The Board of
 15 Trustees of the Employees' Retirement System of Georgia is authorized to promulgate
 16 rules and regulations to carry out this Code section, including, but not limited to, providing
 17 for refunds for members who elect not to be members of either system and providing for
 18 the ~~transferral~~ transferal of legislators' accounts from the Employees' Retirement System
 19 of Georgia, the ~~transferral~~ transferal of service credits, and such other ~~transferrals~~
 20 transferals as the Board of Trustees of the Employees' Retirement System of Georgia shall
 21 deem necessary to carry out the intention and provisions of this Code section."

22 SECTION 20.

23 Said title is further amended by striking in its entirety subsection (b) of Code Section
 24 47-6-81, relating to optional retirement allowances, and inserting in lieu thereof the
 25 following:

26 "(b) Any other provisions of this Code section or of this chapter to the contrary
 27 notwithstanding, the board of trustees may, by rule or regulation, require that when a
 28 member or a retired member dies and the beneficiary is a person other than the surviving
 29 spouse of the member, the benefits payable to the beneficiary shall be paid to the
 30 beneficiary within a definite time period immediately following the death of the member
 31 or retired member. For purposes of this Code section, the term 'equivalent actuarial value'
 32 means a benefit of equivalent value when computed upon the basis of the mortality tables
 33 and rates of interest adopted for such purpose by the board of trustees."

SECTION 21.

Said title is further amended by striking in its entirety Code Section 47-6-82, relating to the manner in which retirement allowances are to be paid and termination of payments upon death, and inserting in lieu thereof the following:

"47-6-82.

All retirement allowances shall be paid in monthly installments and shall cease with the month in which the death of the beneficiary occurs, except as otherwise provided in Code Section 47-6-81."

SECTION 22.

Said title is further amended by striking in its entirety paragraph (9) of Code Section 47-20-3, relating to definitions relative to public retirement systems standards, and inserting in lieu thereof the following:

"(9) 'Actuary' means an actuary who is enrolled under Subtitle C of Title III of the federal Employee Retirement Income Security Act of 1974, P.L. 93-406, or an associate of the Society of Actuaries."

SECTION 23.

Said title is further amended by striking in their entirety paragraphs (10) and (10.1) of said Code Section 47-20-3, and inserting in lieu thereof the following:

~~"(10) 'Amortization contribution' means the excess in total employer and employee contributions over normal cost.~~

~~(10.1)~~ 'Annual required contribution' means the annual required contribution determined in accordance with the requirements of Governmental Accounting Standards Board Statements No. 25 and No. 27 or any subsequent applicable Governmental Accounting Standards Board statements."

SECTION 24.

Said title is further amended by striking in its entirety paragraph (19.1) of said Code Section 47-20-3 and inserting in lieu thereof the following:

"(19.1) 'Negative unfunded actuarial accrued liability' means for any actuarial valuation the excess of actuarial value of assets over the ~~actual~~ actuarial accrued liability of a retirement system under an actuarial cost method utilized by the retirement system for funding purposes."

SECTION 25.

Said title is further amended by inserting immediately following paragraph (20) of said Code Section 47-20-3 the following:

"(20.1) 'Normal cost contribution' means the contribution for the portion of the actuarial present value of a retirement system's benefits and expenses which is allocated to a valuation year by the actuarial cost method used for the retirement system."

SECTION 26.

Said title is further amended by inserting immediately following paragraph (24) of said Code Section 47-20-3 a new paragraph to read as follows:

"(24.1) 'Unfunded accrued liability contribution' means the difference between the total employer and employee contribution and the normal cost contribution."

SECTION 27.

Said title is further amended by striking in its entirety subsection (b) of Code Section 47-20-10, relating to minimum annual employer contribution, and inserting in lieu thereof the following:

"(b) In the case of a retirement system which uses a formula related to the compensation of the members of the retirement system as a basis for the calculation of benefits under the retirement system, the amortization amounts required by subsection (a) of this Code section, except for the amount determined under paragraph (3) of subsection (a) of this Code section, may be determined as a level percentage of future compensation. If such level percentage amortization is used, the actuarial assumption for future annual payroll growth shall not exceed the actuarial assumed valuation interest rate of the retirement system less 2 ½ percent. The minimum standards provided by subsection (a) of this Code section are deemed to have been met if such level percentage amortization is used and the employer contribution is equal to or greater than the annual required contribution as is determined in accordance with the provisions of Governmental Accounting Standards Board Statements No. 25 and No. 27."

SECTION 28.

Said title is further amended by striking in its entirety Code Section 47-22-4, relating to administration and operation of the plan, actuarial and other services, rate of interest, adoption of plan document, records, payment of employees and expenses, and investment, and inserting in lieu thereof the following:

- 1 "47-22-4.
- 2 (a) The general administration and responsibility for the proper operation of the plan and
3 for putting this chapter into effect are vested in the board.
- 4 (b) The board shall engage such actuarial and other services as shall be required to transact
5 the business of the plan.
- 6 (c) The board shall designate an actuary who shall be the technical ~~advisor~~ adviser of the
7 board on matters regarding the operation of the plan and shall perform such other duties
8 as are required in connection therewith.
- 9 ~~(d) At least once in each five-year period following the date of establishment, the actuary~~
10 ~~shall make an actuarial investigation into the mortality experience of the members and~~
11 ~~beneficiaries of the plan and shall make a valuation of the contingent assets and liabilities~~
12 ~~of the plan. The board, after taking into account the results of such investigation and~~
13 ~~valuation, shall adopt for the plan such mortality, service, and other tables as shall be~~
14 ~~deemed necessary.~~
- 15 ~~(e) The board shall determine, from time to time, the rate of regular interest for use in all~~
16 ~~calculation of benefit payments made pursuant to Code Section 47-22-11.~~
- 17 ~~(f)~~(d) Subject to the limitations of this chapter, the board shall, from time to time, adopt
18 the plan document and establish rules and regulations for the administration of the plan and
19 for the transaction of business.
- 20 ~~(g)~~(e) The board shall keep a record of all of its proceedings under this chapter, which
21 record shall be open to the public.
- 22 ~~(h)~~(f) All persons employed by the board and the expenses of the board in furtherance of
23 this chapter shall be paid from funds appropriated to the plan until such time as the board
24 determines that the return on investments is sufficient to cover such costs.
- 25 ~~(i)~~(g) The board may combine the moneys subject to this chapter with other moneys under
26 the control of the board for purposes of investment, provided that a separate accounting is
27 maintained for all moneys subject to this chapter."

28 SECTION 29.

29 Said title is further amended by striking in its entirety Code Section 47-22-11, relating to
30 retirement and option to receive a periodic payment, and inserting in lieu thereof the
31 following:

32 "47-22-11.

33 Any member shall be entitled to retire upon attaining the age of 65. Such member shall
34 have the option to receive a periodic payment ~~based upon mortality tables and interest~~
35 ~~assumptions as adopted~~ as permitted by the board."

1 employee contribution accumulation fund in which the contributions described in Article
 2 5 of this chapter will be held.

3 ~~(9)~~(11) 'Judge, solicitor, or solicitor-general of a state court' means a person elected or
 4 appointed to such office for a specific term. Such term shall not include any person acting
 5 as a judge or solicitor of a state court on a temporary basis or serving as judge or
 6 solicitor-general pro tempore of a state court.

7 ~~(10)~~(12) 'Juvenile court judge' means a juvenile court judge now or hereafter appointed
 8 or otherwise holding office pursuant to Code Section 15-11-18 relative to the creation of
 9 juvenile courts, except judges of the superior courts sitting as juvenile court judges and
 10 juvenile court judges who are members of local retirement or pension systems created by
 11 local law.

12 ~~(11)~~(13) 'Predecessor retirement system' means the District Attorneys' Retirement
 13 System, the Superior Court Judges Retirement System, and the Trial Judges and
 14 Solicitors Retirement Fund, collectively or individually.

15 ~~(12)~~(14) 'Regular interest' means interest at such rate as shall be determined by the board
 16 of trustees, which interest shall be compounded annually.

17 ~~(13)~~(15) 'Retirement system' means the Georgia Judicial Retirement System.

18 ~~(14)~~(16) 'State court' means any court created pursuant to the provisions of Chapter 7 of
 19 Title 15 or any court continued as a state court by Article VI, Section X of the
 20 Constitution of the State of Georgia; provided, however, that such term shall include the
 21 State Court of Fulton County subject to the provisions of Code Section 47-23-50.

22 ~~(15)~~(17) 'Superior Court Judges Retirement System' means that retirement system
 23 created by Chapter 9 of this title as such chapter existed prior to July 1, 1998.

24 ~~(16)~~(18) 'Trial Judges and Solicitors Retirement Fund' means that retirement fund created
 25 by Chapter 10 of this title as such chapter existed prior to July 1, 1998."

26 SECTION 31.

27 Said title is further amended by striking in its entirety subsection (a) of Code Section
 28 47-23-22, relating to control of funds and investment, and inserting in lieu thereof the
 29 following:

30 "(a) The board shall be the trustees of the funds and shall have control of the funds
 31 provided for in this chapter and all funds received by the board shall be deposited into the
 32 Georgia Judicial Retirement System Fund. The benefits provided for in this chapter and all
 33 administrative expenses shall be paid from such fund. The board shall have authority to
 34 expend the funds in accordance with this chapter."

SECTION 32.

Said title is further amended by striking in its entirety subsection (d) of Code Section 47-23-29, relating to survivors benefits and group term life insurance, and inserting in lieu thereof the following:

"(d) Contributions for survivors benefits shall be provided for and administered in the following manner:

(1) After notice from the board of trustees, each employer shall cause to be deducted from the earnable monthly compensation of each member ~~during every payroll period~~ the additional amount established by the board of trustees, but such amount shall not exceed one-half of 1 percent of the member's earnable monthly compensation. Such deductions shall be made under the same conditions as set forth in paragraph (2) of subsection (a) of Code Section 47-3-41; and

(2) There is authorized an employer payment to the fund which shall be a percentage of the earnable monthly compensation of the members of the retirement system. The board of trustees shall establish the rate of such payment, but in no case shall such rate, when added to the members' contributions, exceed 1 percent. Funds for employer payment shall be requested in the same manner as provided in Article 5 of this chapter."

SECTION 33.

Said title is further amended by striking in its entirety Code Section 47-23-80, relating to contributions by superior court judges and district attorneys and employer contributions, and inserting in lieu thereof the following:

"47-23-80.

(a) The provisions of this Code section shall be applicable to judges of the superior courts and district attorneys. The amount of employee contributions to the fund by superior court judges shall be 7 ½ percent of the ~~salaries~~ earnable monthly compensation from state funds provided by law for judges of the superior courts. The amount of employee contributions to the fund by district attorneys shall be 7 ½ percent of the ~~salaries~~ earnable monthly compensation from state funds provided by law for district attorneys. The Department of Administrative Services is authorized to deduct 7 ½ percent monthly from the ~~salary~~ earnable monthly compensation of each judge of the superior courts and each district attorney who is a member of the retirement system to cover the employee contributions to the fund. The Department of Administrative Services is also authorized to make an additional deduction from such ~~salaries~~ earnable monthly compensation to cover any required employee tax for social security coverage. The Department of Administrative Services is authorized and directed to pay, from the funds appropriated or otherwise available for the operation of the superior courts of the state, any required employer

1 contribution for social security coverage on such judges and district attorneys. From funds
 2 appropriated or otherwise available for the operation of superior courts, the Department of
 3 Administrative Services is authorized and directed to pay into the fund the employer
 4 contributions, including contributions to fund any creditable service authorized by this
 5 chapter, which, together with employee contributions and the earnings of the fund, shall
 6 be an amount sufficient to fund the service and disability retirement benefits and the
 7 spouses' benefits under this chapter.

8 (b) The deductions from state ~~salaries~~ earnable monthly compensation and allowances
 9 payable to judges of the superior courts and district attorneys shall be made,
 10 notwithstanding that the compensation and allowances fixed by law for such judges and
 11 district attorneys shall be reduced thereby. Such judges and district attorneys shall be
 12 deemed to consent and agree to the deductions made; and payment of the ~~salary and~~
 13 ~~compensation~~ earnable monthly compensation and allowances, less such deductions, shall
 14 be a full and complete discharge of all claims and demands whatsoever for the services
 15 rendered by such judges and district attorneys during the period covered by such payment.

16 (c) The employer shall pay to the retirement system on each and every payroll period
 17 employee contributions on behalf of and to the credit of each judge and district attorney in
 18 an amount equal to the amount which would be paid to the annuity savings fund pursuant
 19 to Code Section 47-2-54 if the judge or district attorney were a member of the Employees'
 20 Retirement System of Georgia. Such members shall continue to have deducted from their
 21 state ~~salaries~~ earnable monthly compensation the additional amount of employee
 22 contributions required by this chapter. Such monthly contributions made by the employer
 23 on behalf of a member shall be included in the computation of the member's state ~~salary~~
 24 earnable monthly compensation for purposes of computing retirement benefits.

25 (d) All members shall retain, have, and be subject to all other rights, privileges,
 26 obligations, and duties otherwise provided for in this chapter; and all such other provisions
 27 shall remain of full force and effect with respect to any matter not specifically provided for
 28 in subsection (c) of this Code section."

29 SECTION 34.

30 Said title is further amended by striking in its entirety Code Section 47-23-81, relating to
 31 contributions by judges and solicitors-general of the state courts, employer contributions, and
 32 required reports, and inserting in lieu thereof the following:

33 "47-23-81.

34 (a) The provisions of this Code section shall be applicable to judges and solicitors-general
 35 of state courts. The basis for employer and employee contributions to the fund with respect
 36 to a judge or solicitor-general of a state court shall be the actual ~~salary~~ earnable monthly

1 compensation received as such judge or solicitor-general; provided, however, that for
2 members who become members after July 1, 1998, such amount shall not exceed the ~~salary~~
3 earnable monthly compensation from state funds provided by law for superior court judges.

4 (b)(1) The employee contributions with respect to judges and solicitors-general of state
5 courts who are compensated by ~~salaries~~ earnable monthly compensation paid by the
6 employing units which pay the costs of the operation of such courts shall be 7 ½ percent
7 of the amount of such ~~salaries~~ earnable monthly compensation. A person to be designated
8 by each such employing unit shall report the amount of such ~~salaries~~ earnable monthly
9 compensation to the board by not later than the fifteenth day of each calendar month. The
10 employing units are authorized to pay any portion of the employee contribution and to
11 deduct employee contributions from the ~~salaries~~ earnable monthly compensation of such
12 judges and solicitors-general and to pay the contributions into the fund. An employing
13 unit which so elects to pay any portion of the employee contribution shall apply such
14 provisions on behalf of all state court judges and solicitors-general employed by such
15 employing unit now or in the future, and such provisions shall apply only to the earnable
16 monthly compensation earned by the employing unit's state court judges and
17 solicitors-general after the effective date of the election by such employing unit to pay
18 such member's employee contributions. Such contributions shall be forwarded to the
19 board at the same time the report of the ~~salaries~~ earnable monthly compensation of such
20 judges and solicitors-general is forwarded. The employing units are also authorized to
21 make an additional deduction from such ~~salaries~~ earnable monthly compensation to cover
22 any required ~~employer~~ employee tax for social security coverage. The deduction from the
23 ~~salaries~~ earnable monthly compensation payable to such judges and solicitors-general of
24 state courts shall be made, notwithstanding that such ~~salaries~~ earnable monthly
25 compensation fixed by law for such judges and solicitors-general ~~are~~ is reduced thereby.
26 Such judges and solicitors-general shall be deemed to consent and agree to the deductions
27 made; and payment of such ~~salaries~~ earnable monthly compensation, less such
28 deductions, shall be a full and complete discharge of all claims and demands whatsoever
29 for the services rendered by such judges and solicitors-general during the period covered
30 by such payment.

31 (2) From funds appropriated or otherwise available for the operation of superior courts,
32 the Department of Administrative Services is authorized and directed to pay into the fund
33 provided for by this chapter monthly employer contributions, including contributions to
34 fund any creditable service authorized by this chapter. Such amounts are to be determined
35 by the board and, together with employee contributions and the earnings of the fund, shall
36 be an amount sufficient to fund the service and disability retirement benefits under this
37 chapter. The Department of Administrative Services is authorized and directed to pay

1 from the funds appropriated or otherwise available for the operation of the superior courts
2 of the state any required employer contribution for social security coverage on such
3 members.

4 (c) It shall be the duty of each employing unit affected by this chapter to designate a
5 responsible person to submit the reports and forward the employee contributions set forth
6 in this Code section. It shall be the duty of the person so designated to comply with this
7 Code section. If the required reports and employee contributions are not forwarded to the
8 board or if duplicate copies of the reports are not directed to the Office of Treasury and
9 Fiscal Services, in accordance with this Code section, as appropriate, the Office of
10 Treasury and Fiscal Services is authorized to withhold any state payments payable to the
11 governmental unit failing to forward such reports and employee contributions until such
12 time as such reports and contributions have been received.

13 (d) All members shall retain, have, and be subject to all other rights, privileges,
14 obligations, and duties otherwise provided for in this chapter; and all such other provisions
15 shall remain of full force and effect with respect to any matter not specifically provided for
16 in subsection (c) of this Code section."

17 SECTION 35.

18 Said title is further amended by striking in its entirety Code Section 47-23-82, relating to
19 contributions by juvenile court judges, employer contributions, and required reports, and
20 inserting in lieu thereof the following:

21 "47-23-82.

22 (a) The provisions of this Code section shall be applicable to juvenile court judges. The
23 basis for employer and employee contributions to the fund with respect to juvenile court
24 judges shall be the ~~salary~~ earnable monthly compensation paid to such judges by the
25 employing units paying the cost of the operation of the juvenile courts, unless such ~~salary~~
26 earnable monthly compensation exceeds the state ~~salary~~ earnable monthly compensation
27 paid to superior court judges, as now or hereafter fixed by law, in which event the basis for
28 such employer and employee contributions shall be the same as the state earnable monthly
29 compensation paid to judges of the superior courts.

30 (b)(1) The employee contributions with respect to juvenile court judges who are
31 compensated by ~~salaries~~ earnable monthly compensation paid by the employing units
32 which pay the costs of the operation of such courts shall be 7 ½ percent of the amount of
33 such ~~salaries~~ earnable monthly compensation. A person to be designated by each such
34 employing unit shall report the amount of such ~~salaries~~ earnable monthly compensation
35 to the board by not later than the fifteenth day of each calendar month. The employing
36 units are authorized, but not required, to pay any portion of the employee contribution on

1 behalf of the member and to deduct such employee contributions from the ~~salaries~~
 2 earnable monthly compensation of such juvenile court judges and to pay the contributions
 3 into the fund. An employing unit which so elects to pay any portion of the employee
 4 contribution shall apply such provisions on behalf of all juvenile court judges employed
 5 by such employing unit now or in the future, and such provisions shall apply only to the
 6 earnable monthly compensation earned by the employing unit's juvenile court judges
 7 after the effective date of the election by such employing unit to pay such member's
 8 employee contributions. Such contributions shall be forwarded to the board at the same
 9 time the report of the ~~salaries~~ earnable monthly compensation of such juvenile court
 10 judges is forwarded. The employing unit is also authorized to make an additional
 11 deduction from such ~~salaries~~ earnable monthly compensation to cover any required
 12 employee tax for social security coverage. The deduction from the ~~salaries~~ earnable
 13 monthly compensation payable to such juvenile court judges shall be made,
 14 notwithstanding that such ~~salaries~~ earnable monthly compensation fixed by law for such
 15 juvenile court judges ~~are~~ is reduced thereby. Such juvenile court judges shall be deemed
 16 to consent and agree to the deductions made; and payment of such ~~salaries~~ earnable
 17 monthly compensation, less such deductions, shall be a full and complete discharge of
 18 all claims and demands whatsoever for the services rendered by such juvenile court
 19 judges during the period covered by such payment.

20 (2) From funds appropriated or otherwise available for the operation of superior courts,
 21 the Department of Administrative Services is authorized and directed to pay into the fund
 22 provided for by this chapter monthly employer contributions, including contributions to
 23 fund any creditable service authorized by this chapter. Such amounts are to be determined
 24 by the board and, together with employee contributions and the earnings of the fund, shall
 25 be an amount sufficient to fund the service and disability retirement benefits under this
 26 chapter.

27 (c) It shall be the duty of each employing unit affected by this chapter to designate a
 28 responsible person to submit the reports and forward the employee contributions set forth
 29 in this Code section. It shall be the duty of the person so designated to comply with this
 30 Code section. If the required reports and employee contributions are not forwarded to the
 31 board or if duplicate copies of the reports are not directed to the Office of Treasury and
 32 Fiscal Services, in accordance with this Code section, as appropriate, the Office of
 33 Treasury and Fiscal Services is authorized to withhold any state payments payable to the
 34 governmental unit failing to forward such reports and employee contributions until such
 35 time as such reports and contributions have been received.

36 (d) All members shall retain, have, and be subject to all other rights, privileges,
 37 obligations, and duties otherwise provided for in this chapter; and all such other provisions

1 shall remain of full force and effect with respect to any matter not specifically provided for
2 in subsection (c) of this Code section."

3 **SECTION 36.**

4 Said title is further amended by striking in its entirety Code Section 47-23-100, relating to
5 a definition of salary, and inserting in lieu thereof the following:

6 "47-23-100.

7 (a) As used in this article, the term 'salary' means:

8 (1) For superior court judges, the ~~salaries~~ earnable monthly compensation from state
9 funds provided by law for judges of the superior courts on the date the member begins
10 receiving a retirement benefit;

11 (2) For district attorneys, the ~~salaries~~ earnable monthly compensation from state funds
12 provided by law for district attorneys on the date the member begins receiving a
13 retirement benefit;

14 (3) For judges and solicitors-general of state courts, the average ~~annual~~ earnable monthly
15 compensation received as such judge or solicitor-general; provided, however, that for
16 members who become members after July 1, 1998, such amount shall not exceed the
17 salary from state funds provided by law for superior court judges; and

18 (4) For juvenile court judges, the average earnable monthly compensation received as
19 such juvenile judge; provided, however, that for members who become members after
20 July 1, 1998, such amount shall not exceed the salary from state funds provided by law
21 for superior court judges.

22 (b) The monthly employee contributions made by the employer on behalf of the member
23 under Code Sections 47-23-80, 47-23-81, and 47-23-82 shall be used in the computation
24 of the member's salary for the computation of the member's retirement benefits.

25 (c) Notwithstanding any provision of this chapter to the contrary, a member's salary shall
26 be subject to limitations set forth in Code Section 47-1-13."

27 **SECTION 37.**

28 Said title is further amended by striking in its entirety subsection (a) of Code Section
29 47-23-103, relating to retirement based on age and application to retire, and inserting in lieu
30 thereof the following:

31 "(a) In lieu of retirement at the benefit level provided by Code Section 47-23-102, a
32 member may retire at any time after attaining the age of 60 years and after obtaining a
33 minimum of ten years of creditable service. The monthly retirement benefit for such early
34 retirement shall be a percentage of the benefit under Code Section ~~47-23-100~~ 47-23-102,

1 and such percentage shall be the proportion which the number of years of creditable service
2 the member has in the retirement system bears to 16."

3 **SECTION 38.**

4 Said title is further amended by striking in its entirety subsection (f) of Code Section
5 47-23-105, relating to spouses' benefits, ceasing spouses' benefits, vesting, and designation
6 of survivors benefits, and inserting in lieu thereof the following:

7 "(f) Any member at the time of retirement who has met the conditions of subsection (e) of
8 this Code section may designate a natural person other than his or her spouse to receive a
9 survivors benefit in the same manner and under the same conditions as provided for
10 spouses' benefits; provided, however, that any person so designated shall receive a benefit
11 equal to the normal spouse's benefit actuarially reduced in accordance to such person's and
12 the member's projected life span spans. Such actuarial adjustment shall be computed at
13 regular interest upon the basis of the mortality tables and rates of interest last adopted by
14 the board of trustees. Such benefit shall not exceed 50 percent of the member's monthly
15 retirement benefit."

16 **SECTION 39.**

17 Said title is further amended by striking in its entirety Code Section 47-23-108, relating to
18 withdrawal of funds, and inserting in lieu thereof the following:

19 "47-23-108.

20 Except as otherwise expressly provided in this chapter, if a member ceases to be employed
21 in a covered position, he or she may withdraw the total sum, with 6 percent interest, which
22 he or she has paid into the fund. The member shall not be eligible at any time after such
23 withdrawal to become a member of the fund, unless at a later date he or she becomes
24 employed in a covered position, in which event he or she shall be reinstated into the fund
25 as if he or she had never before been a member. Any such reinstated member shall have the
26 privilege of reestablishing any prior creditable service, provided that the member repays
27 into the retirement system an amount equal to the amount withdrawn, which shall be placed
28 in the employee contribution accumulation fund, together with 6 percent interest from the
29 date of withdrawal to the date of repayment, which interest shall be placed in the pension
30 accumulation fund. The employee contributions paid by the employer as provided in
31 subsection (c) of Code Section 47-23-80 shall be considered to be payments made by the
32 member."

33 **SECTION 40.**

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