

House Bill 275 (AS PASSED HOUSE AND SENATE)

By: Representatives Cole of the 125th, Mumford of the 95th, Golick of the 34th, Roberts of the 154th, Smith of the 129th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to state
2 employees' insurance and benefits plans, so as to transfer administration of certain deferred
3 compensation plans from the State Personnel Board to the Board of Trustees of the
4 Employees' Retirement System of Georgia; to provide for transfer of accounts, funds, and
5 information; to provide for investment advisors and counselors; to provide for related
6 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to state
10 employees' insurance and benefits plans, is amended by striking Article 2 and inserting in
11 its place a new Article 2 to read as follows:

12 "ARTICLE 2

13 45-18-30.

14 As used in this article, the term 'employee' means any person, whether appointed or elected,
15 who provides services for the state, including any state authority authorized to participate
16 in the Employees' Retirement System of Georgia under Chapter 2 of Title 47, or for a
17 county, municipality, or other political subdivision and who is paid for providing such
18 services.

19 45-18-31.

20 The state or any county, municipality, or other political subdivision may contract with any
21 employee to defer, in whole or in part, any portion of such employee's compensation under
22 a deferred compensation plan; and the state, county, municipality, or other political

1 subdivision may provide the deferred compensation plan itself or it may contract with any
2 company qualified to do business in this state to provide such benefits.

3 45-18-32.

4 The ~~State Personnel Board~~ of Trustees of the Employees' Retirement System of Georgia
5 shall administer any deferred compensation plan provided for the employees of the state.
6 Employees of the county boards of health receiving financial assistance from the
7 Department of Human Resources may, with the approval of the ~~State Personnel Board~~ of
8 Trustees of the Employees' Retirement System of Georgia and the approval of such
9 organizations, participate in the state plan. Employees of county and independent school
10 systems may, with the approval of the ~~State Personnel Board~~ of Trustees of the Employees'
11 Retirement System of Georgia and the approval of such systems, participate in the state
12 plan. Employees of the Lake Allatoona Preservation Authority, the Georgia Federal-State
13 Shipping Point Inspection Service, and the Georgia Firefighters' Pension Fund may, with
14 the approval of the ~~State Personnel Board~~ of Trustees of the Employees' Retirement
15 System of Georgia and the approval of such organizations, participate in the state plan.
16 The ~~State Personnel Board~~ of Trustees of the Employees' Retirement System of Georgia
17 shall investigate and approve a deferred compensation plan which gives the employees of
18 the state income tax benefits in connection with plans authorized by the United States
19 Internal Revenue Code, so that compensation deferred under such plan shall not be
20 included for purposes of computation of any federal income tax withheld on behalf of any
21 such employee or payable by such employee before any deferred payment date. All
22 contributions to the deferred compensation plan shall also be exempt from state
23 withholding tax as long as such contributions are not includable in gross income for federal
24 income tax purposes. The governing body of a city, county, or other political subdivision
25 may appoint an administrator for all deferred compensation plans, whose duties shall
26 include the administration of the plan and the investigation and approval of the plan or
27 plans. All such plans shall provide tax deferral benefits for the respective employees in a
28 manner similar to that of the plan for state employees.

29 45-18-33.

30 Notwithstanding any other provision of law to the contrary, in order to carry out the
31 provisions of the deferred compensation plan, the state or any county, municipality, or
32 other political subdivision is authorized to make payments for the purchase of insurance,
33 endowments, annuities, mutual funds, or savings from funds derived from the deferral of
34 compensation. Such payments shall not be construed to be a prohibited use of the general
35 assets of the state, county, municipality, or other political subdivision. The ~~State Personnel~~

1 Board of Trustees of the Employees' Retirement System of Georgia or the administrator
2 of the plan shall have the power to arrange for a custodian for the holding of such insurance
3 policies, funds, investments, and other assets of the fund.

4 45-18-34.

5 The deferred compensation programs authorized by this article shall exist and serve in
6 addition to retirement, pension, or benefit systems established by the state, county,
7 municipality, or other political subdivision; and no deferral of income under the deferred
8 compensation program shall effect a reduction of any retirement, pension, or other benefit
9 provided by law.

10 45-18-35.

11 ~~The State Personnel Board~~ Board of Trustees of the Employees' Retirement System of Georgia
12 or the administrator of the plan shall arrange for all services required to carry out the
13 deferred compensation plan or plans so that such plan or plans shall operate without cost
14 to the state, county, city, or other political subdivision except for employer contributions
15 to a deferred compensation plan and for the incidental expense of administering the payroll
16 salary deduction or reduction and the remittance thereof.

17 45-18-36.

18 (a) The salary reduction or deductions referred to in this article shall be instituted at the
19 request of the participating employees by the payroll departments applicable to the
20 respective employees.

21 (b) Records of participation agreements, payroll deductions, investment options, and other
22 individual account information shall be maintained as confidential by the administrator.
23 The records shall not be disclosed except as necessary to accomplish the purposes of this
24 article or in cases where a subpoena has been issued for the purpose of discovery or as
25 otherwise authorized in writing by the employee. This prohibition shall not bar federal,
26 state, or local tax authorities from such access to the records as may be necessary to
27 establish the tax status or liability of a participating employee.

28 45-18-37.

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

30 (1) 'Special compensation' means compensation for terminal leave and such other
31 compensation as the ~~State Personnel Board~~ Board of Trustees of the Employees' Retirement
32 System of Georgia deems appropriate under federal regulations.

1 (2) 'Special pay plan' means a qualified retirement plan under Section 401(a) of the
 2 federal Internal Revenue Code, 26 U.S.C. Section 401(a), which reduces federal tax
 3 obligations on special compensation.

4 (3) 'State employee' means any person, whether appointed or elected, who provides
 5 services for the state, including any state authority authorized to participate in the
 6 Employees' Retirement System of Georgia under Chapter 2 of Title 47.

7 (4) 'Terminal leave' means accrued and unused annual leave which has not been forfeited
 8 at the time of a state employee's separation from service, not to exceed 360 hours.

9 (b) ~~The State Personnel Board~~ of Trustees of the Employees' Retirement System of
 10 Georgia shall establish and administer a special pay plan for the deferred payment of
 11 special compensation which reduces the federal tax obligation upon such payments. Such
 12 plan shall become effective not later than July 1, 2005. Participation in such plan shall be
 13 mandatory for all retiring and terminating state employees age 55 and older whose
 14 compensation for terminal leave equals \$1,000.00 or more. Payment options from the plan
 15 shall include, at a minimum, a lump sum payment to the employee within seven days after
 16 payments are made into the plan on his or her behalf in an amount equal to the entire
 17 amount of special compensation with earnings thereon, less any mandatory income tax
 18 withholding. The board of trustees may contract with any company qualified to do business
 19 in this state to provide such benefits.

20 (c) Nothing in this Code section shall be construed so as to affect benefits under Chapter
 21 2 of Title 47.

22 45-18-38.

23 Effective July 1, 2005, the Board of Trustees of the Employees' Retirement System of
 24 Georgia shall be the successor to the State Personnel Board for the purpose of
 25 administering any defined compensation plan provided to employees as referenced in Code
 26 Sections 45-18-32 and 45-18-33. The State Personnel Board shall transfer individual
 27 accounts, associated funds, and any other applicable information in a manner prescribed
 28 by the Board of Trustees of the Employees' Retirement System of Georgia no later than
 29 September 30, 2005. The Board of Trustees of the Employees' Retirement System of
 30 Georgia is authorized to employ agents and to contract with such agents for their services
 31 as investment advisors and counselors who will make recommendations for investments
 32 and make investments as the board of trustees so authorizes."

33 SECTION 2.

34 This Act shall become effective on July 1, 2005.

1

SECTION 3.

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