

Senate Bill 284

By: Senators Seabaugh of the 28th and Balfour of the 9th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend provisions of the Official Code of Georgia Annotated relating to health care; to
 2 amend Part 6 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia
 3 Annotated, relating to health insurance plans, so as to provide that the commissioner of
 4 community health may combine the health insurance funds for public school teachers and
 5 public school employees with other health insurance funds for public employees; to provide
 6 for the payment of health insurance premiums by certain retired employees; to provide for
 7 the method of determining the employer contribution to the fund; to provide for suspension
 8 of benefits if the employer contribution is not paid in full; to amend Article 1 of Chapter 18
 9 of Title 45 of the Official Code of Georgia Annotated, relating to the health insurance fund
 10 for public employees, so as to provide that the commissioner of community health may
 11 combine the health insurance fund for public employees with other health insurance funds
 12 for public employees; to provide for the payment of health insurance premiums by certain
 13 retired employees; to provide for the method of determining the employer contribution to the
 14 fund; to provide for suspension of benefits if the employer contribution is not paid in full; to
 15 amend Chapter 18 of Title 45, relating to employees' insurance and benefits plans, so as to
 16 create a trust fund to provide for retiree post-employment health care benefits; to provide for
 17 definitions; to provide for the powers and duties of the board and commissioner of
 18 community health; to provide for actuarial services; to provide for related matters; to repeal
 19 conflicting laws; and for other purposes.

20 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

21 **SECTION 1.**

22 Part 6 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
 23 relating to health insurance plans, is amended by adding a new subsection (c) to Code
 24 Section 20-2-891, relating to health insurance fund for public school teachers, to read as
 25 follows:

1 "(c) Notwithstanding any provision of law to the contrary, the commissioner may combine
 2 the fund provided for in this Code section with the funds provided for in Code Section
 3 20-2-918 and Code Section 45-18-12."

4 **SECTION 2.**

5 Said part is further amended by striking subsection (b) of Code Section 20-2-892, relating
 6 to contributions by employees, state, and local employers, and inserting in lieu thereof a new
 7 subsection (b) to read as follows:

8 "(b) As the local employer's share, the local employer shall contribute to the health
 9 insurance fund such portion of the cost of such benefits as may be established by the
 10 Governor and the board ~~based on a percentage of the total outlay for the salaries of teachers~~
 11 ~~employed by the local employer~~ and, in addition thereto, an amount to be established by
 12 the board to defray the cost of administration. The board shall determine whether such
 13 portion shall be determined based upon a percentage of the total outlay for the salaries of
 14 teachers employed by the local employer or determined on an amount per employee
 15 electing coverage under the plan based on the coverage elected, in accordance with the
 16 appropriation of funds. If a local employer fails to remit the employer's share as calculated
 17 by the commissioner, as provided in this Code section, it shall be the duty of the
 18 commissioner to notify the State Board of Education of such failure and it shall be the duty
 19 of the State Board of Education to withhold from the employer which has failed to comply
 20 all appropriations allotted to such employer until such employer has fully complied with
 21 the provisions of this Code section by making remittance of the sums required."

22 **SECTION 3.**

23 Said part is further amended by striking subsection (a) of Code Section 20-2-915, relating
 24 to coverage for retiring and retired public school and certain community college employees
 25 and dependents, and inserting in lieu thereof a new subsection (a) to read as follows:

26 "(a) The contract or contracts shall provide for health insurance for retiring public school
 27 employees and their spouses and dependent children, as defined by the regulations of the
 28 board, under such terms as the board may deem appropriate. The board shall adopt
 29 regulations prescribing the conditions under which an employee or retiring employee may
 30 elect to participate in or withdraw from the health insurance plan; provided, however, that
 31 any such persons who are eligible to receive a benefit under Chapter 3 or 4 of Title 47 shall
 32 be entitled to continue health benefit coverage from active service by authorizing
 33 deductions from the retiree's retirement benefit or by paying a ~~quarterly~~ premium directly
 34 to the board as provided by the rules and regulations of the board. For retirees who pay
 35 directly, the participation rate shall be the same as the rate charged to other retired direct

1 payees. Surviving spouses of direct paying retirees shall be eligible to continue coverage
 2 at the death of the retiree under the same conditions as the retiree but shall not be eligible
 3 to include additional persons in the contract after the retiree's death. The board may limit
 4 the choices of direct paying retirees to the level of coverage supported by the employer
 5 contribution authorized under this Code section."

6 SECTION 4.

7 Said part is further amended by striking Code Section 20-2-918, relating to health insurance
 8 fund for public school employees, and inserting in lieu thereof a new Code Section 20-2-918
 9 to read as follows:

10 "20-2-918.

11 (a) There is created a health insurance fund for public school employees. The fund shall
 12 be available without fiscal year limitations for premiums, subscription charges, benefits,
 13 and administration costs. The amounts contributed by the state or from federal funds
 14 pursuant to this subpart shall be credited to such health insurance fund. All other income,
 15 including the income derived from dividends, premium rate adjustments, or other refunds
 16 under any such contract or contracts, shall be credited to and constitute a part of such fund.

17 Any amounts remaining in such fund after all premiums or subscription charges and other
 18 expenses have been paid shall be retained in such fund as a special reserve for adverse
 19 fluctuation. The commissioner shall be the custodian of such health insurance fund and
 20 shall be responsible under a properly approved bond for all moneys coming into the fund
 21 and paid out of the fund as may be required to be paid to any contracting qualified entity
 22 under any contract entered into pursuant to this subpart and to cover administrative costs.

23 (b) Notwithstanding any provision of law to the contrary, the commissioner may combine
 24 the fund provided for in this Code section with the funds provided for in Code Section
 25 20-2-891 and Code Section 45-18-12."

26 SECTION 5.

27 Said part is further amended by striking subsection (b) of Code Section 20-2-920, relating
 28 to withholding or deducting employees' contributions, and inserting in lieu thereof a new
 29 subsection (b) to read as follows:

30 "(b) The Department of Education and local school systems shall contribute to the health
 31 insurance fund such portion of the costs of such benefits as may be established by the board
 32 to maintain the employee contributions consistent with other health insurance plans
 33 administered by the board. In the event that the commissioner shall determine that a local
 34 employer has failed to contribute the full amount of such portion, as calculated by the
 35 commissioner, it shall be the duty of the commissioner to notify the State Board of

1 Education of such failure and it shall be the duty of the State Board of Education to
 2 withhold from the employer which has failed to comply all appropriations allotted to such
 3 employer until such employer has fully complied with the provisions of this Code section
 4 by making remittance of the sums required."

5 **SECTION 6.**

6 Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the
 7 health insurance fund for public employees, is amended by striking Code Section 45-18-12,
 8 relating to creation of health insurance fund, and inserting in lieu thereof a new Code Section
 9 45-18-12 to read as follows:

10 "45-18-12.

11 (a) There is created a health insurance fund which shall be available without fiscal year
 12 limitations for premium, subscription charge, benefits, and administration costs. The
 13 amounts withheld from employees and retired employees under this article, all amounts
 14 contributed by the state or from federal funds to such health insurance fund, and all
 15 amounts contributed by any state authority pursuant to this article shall be credited to such
 16 health insurance fund. All other income, as well as the income derived from any dividends,
 17 premium rate adjustments, or other refunds under any contract or contracts, shall be
 18 credited to and constitute a part of such fund. Any amounts remaining in such fund after
 19 all premiums or subscription charges and other expenses have been paid shall be retained
 20 in such fund as a special reserve for adverse fluctuation. The commissioner of community
 21 health shall be executive officer of the Board of Community Health for the administration
 22 of this article and custodian of such health insurance fund and shall be responsible under
 23 a properly approved bond for all moneys coming into said fund and paid out of said fund
 24 as may be required to be paid to any contracting corporation under any contract entered
 25 into pursuant to this article and to cover administrative costs.

26 (b) Notwithstanding any provision of law to the contrary, the commissioner may combine
 27 the fund provided for in this Code section with the funds provided for in Code Section
 28 20-2-891 and Code Section 20-2-918."

29 **SECTION 7.**

30 Said article is further amended by striking Code Section 45-18-14, relating to deductions
 31 from compensation and benefit payments of share of cost of coverage under plan of
 32 employees, and inserting in lieu thereof a new Code Section 45-18-14 to read as follows:

33 "45-18-14.

34 (a) During any period in which an employee is covered under this article prior to the date
 35 of his retirement, there shall be withheld from each salary payment or other compensation

1 of such employee, as his share of the cost of coverage under this plan, such portion of the
 2 premium or subscription charges under the terms of any contract or contracts issued in
 3 accordance with this article as may be established by the board. During any month in
 4 which benefits are being paid by the Employees' Retirement System of Georgia to an
 5 individual so covered under this program, contributions in the amounts prescribed by the
 6 board shall be deducted from such payments with the consent of the recipient. The various
 7 departments, boards, and agencies of the state government shall contribute to the health
 8 insurance fund such portions of the cost of such benefits as may be established by the board
 9 and the Governor as funds become available in each department, board, and agency, ~~based~~
 10 ~~on a percentage of the total outlay for personal services~~ in addition to an amount to be
 11 established by the board to defray the cost of administration and the state's portion of the
 12 cost of benefits payable for annuitants. The legislative fiscal officer shall contribute to the
 13 health insurance fund as an employer payment for and on behalf of all members of the
 14 General Assembly and its administrative and clerical personnel. The Department of
 15 Administrative Services shall contribute to the fund as an employer payment for and on
 16 behalf of district attorneys, assistant district attorneys appointed pursuant to Code Section
 17 15-18-14, and secretaries and law clerks of the superior courts of the state and secretaries
 18 employed by district attorneys. The amount of such contributions shall be such portions
 19 of the costs of such benefits as may be established by the board ~~as a percent of the total~~
 20 ~~outlay of services rendered by members of the General Assembly, its administrative and~~
 21 ~~clerical personnel, and the district attorneys of the superior courts of the state;~~ and, in
 22 addition thereto, an amount to be established by the board shall be contributed to defray the
 23 costs of administration. The board shall determine whether such employer portion shall
 24 be determined based upon a percentage of the total outlay for personal services or
 25 determined on an amount per employee electing coverage under the plan based on the
 26 coverage elected, in accordance with the appropriation of funds.

27 (b) If an employee has been eligible for coverage under the state health insurance plan for
 28 a period of ten years and is discharged from employment and the discharge is under appeal
 29 to the State Personnel Board, such employee shall be entitled to continue coverage by
 30 paying the employee contribution under the health insurance plan until the State Personnel
 31 Board has rendered a decision or for a period of six months, whichever is less."

32 SECTION 8.

33 Chapter 18 of Title 45, relating to employees' insurance and benefits plans, is amended by
 34 adding a new Article 6 to read as follows:

"ARTICLE 6

45-18-100.

As used in this article, the term:

(1) 'Actuarial accrued liability' means that portion, as determined by a particular actuarial cost method, of the actuarial present value of fund obligations and administrative expenses which is not provided for by future normal costs.

(2) 'Actuarial assumptions' means assumptions regarding the occurrence of future events affecting costs of the fund such as mortality, withdrawal, disability, and retirement; changes in compensation and offered post-employment benefits; rates of investment earnings and asset appreciation or depreciation; procedures used to determine the actuarial value of assets; and other such relevant items.

(3) 'Actuarial cost method' means a method for determining the actuarial present value of the obligations and administrative expenses of the fund and for developing an actuarially equivalent allocation of such value to time periods, usually in the form of a normal cost and an actuarial accrued liability. Acceptable actuarial methods are the aggregate, attained age, entry age, frozen attained age, frozen entry age, and projected unit credit methods.

(4) 'Actuarial present value of total projected benefits' means the present value, at the valuation date, of the cost to finance benefits payable in the future, discounted to reflect the expected effects of the time value of money and the probability of payment.

(5) 'Actuarial valuation' means the determination, as of a valuation date, of the normal cost, actuarial accrued liability, actuarial value of assets, and related actuarial present values for the fund.

(6) 'Actuarially sound' means that calculated contributions to the fund are sufficient to pay the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of providing for fund obligations as they accrue in the future and the cost of amortizing the unfunded actuarial accrued liability over a period of no more than 30 years.

(7) 'Administrative expenses' means all expenses incurred in the operation of the fund, including all investment expenses.

(8) 'Annual required contribution' means the amount determined in accordance with requirements of Governmental Accounting Standards Board Statement No. 43, or any subsequent Governmental Accounting Standards Board statements that may be applicable to the fund.

(9) 'Board' means the Board of Community Health.

1 (10) 'Covered health care expenses' means all actual health care expenses paid by the
2 health plan on behalf of fund beneficiaries. Actual health care expenses include claims
3 payments to providers and premiums paid to intermediary entities and health care
4 providers by the health plan.

5 (11) 'Department' means the Department of Community Health.

6 (12) 'Eligible to participate' means employees of employers who are participating in the
7 health plan and those employees of employers who qualify to participate in the health
8 plan but choose not to do so.

9 (13) 'Employer' means the State of Georgia; the departments, agencies, or institutions of
10 the state; and any political subdivision of the state that employs persons who are eligible
11 to participate in the health plan.

12 (14) 'Fund' means the Georgia Retiree Health Benefit Fund established under this article.

13 (15) 'Fund beneficiaries' means all persons receiving post-employment health care
14 benefits through the health plan.

15 (16) 'Fund participants' means employees of an employer who are eligible to participate
16 in the health plan.

17 (17) 'Health plan' means the state employees' health insurance plan established under
18 Article 1 of this chapter, the health insurance plan for public school teachers established
19 under Subpart 1 of Part 6 of Article 17 of Chapter 2 of Title 20 of the Official Code of
20 Georgia Annotated, and the health insurance plan for public school employees established
21 under Subpart 2 of Part 6 of Article 17 of Chapter 2 of Title 20 of the Official Code of
22 Georgia Annotated.

23 (18) 'Normal cost' means that portion of the actuarial present value of the fund
24 obligations and expenses which is allocated to a valuation year by the actuarial cost
25 method used for the fund.

26 (19) 'Obligations' means the administrative expenses of the fund and the cost of covered
27 health care expenses incurred on behalf of fund beneficiaries less any amounts received
28 by or on behalf of fund beneficiaries.

29 (20) 'Retirement plan' means any retirement or pension plan or any other plan or program
30 which exists on July 1, 2006, or which is created or established on or after that date, and
31 which is maintained by an employer or maintained pursuant to law or other authority of
32 an employer for the purpose of paying retirement benefits to fund beneficiaries. The term
33 shall also include any plan or program that creates a retired position, including, but not
34 limited to, emeritus positions, which provides a salary for such position in lieu of a
35 retirement benefit. The term shall also include a plan that provides for an individual
36 account for each participant and for benefits determined solely upon the amounts

1 contributed by the employer and the participant to the participant's account and any
2 income, expenses, gains, and losses.

3 (21) 'State plan for other post-employment benefits' means the State of Georgia fiscal
4 funding plan for retiree post-employment health care benefits as it relates to
5 Governmental Accounting Standards Board Statement No. 43, or any subsequent
6 Governmental Accounting Standards Board statements that may be applicable to the
7 fund.

8 (22) 'Unfunded actuarial accrued liability' means for any actuarial valuation the excess
9 of the actuarial accrued liability over the actuarial value of the assets of the fund under
10 an actuarial cost method utilized by the fund for funding purposes.

11 45-18-101.

12 (a) There is created the Georgia Retiree Health Benefit Fund to provide for the employer
13 costs of retiree post-employment health insurance benefits.

14 (b) The fund shall be available without fiscal year limitations for covered health care
15 expenses and administration costs. All employer contributions, appropriations, earnings,
16 and reserves for the payment of obligations under this article shall be credited to such fund.
17 The amounts remaining in such fund, if any, after such health care expenses and
18 administration costs have been paid shall be retained in such fund as a special reserve for
19 adverse fluctuation. All assets of the fund shall be used solely for the payment of fund
20 obligations and for no other purpose.

21 45-18-102.

22 (a) Responsibility for the proper operation of the fund is vested in the department.

23 (b) The board shall adopt actuarial assumptions as it deems necessary and prudent.

24 (c) The board shall determine the minimum annual required contribution rates sufficient
25 to maintain the fund in accordance with the state plan for other post-employment benefits.

26 (d) The board may adopt any rules and regulations that it finds necessary to properly
27 administer the fund.

28 (e) The department shall furnish reports to the board at each of the board's regularly
29 scheduled meetings for the board's review. The reports shall contain the most recent
30 information reasonably available to the department reflecting the obligations of the fund,
31 earnings on investments, and such other information as the board deems necessary and
32 appropriate.

33 (f) The commissioner of community health, as executive officer of the board, shall employ
34 such personnel as may be needed to carry out the provisions of this article and such
35 personnel shall be employees of the Department of Community Health. The pro rata share

1 of the costs of operating the Department of Community Health in the manner prescribed
2 by law shall be a part of the administrative costs of the fund.

3 (g) The department may employ or contract for the services of actuaries and other
4 professionals as required to carry out the duties established by this article.

5 (h) The department shall contract with the Division of Investment Services of the Teachers
6 Retirement System of Georgia and the Employees' Retirement System of Georgia for any
7 necessary services with respect to fund investments.

8 (i) The department shall maintain all necessary records regarding the fund in accordance
9 with generally accepted accounting principles, as applicable to the fund.

10 (j) The department shall collect all moneys due to the fund and shall pay any
11 administrative expenses necessary and appropriate for the operation of the fund from the
12 fund.

13 (k) The department shall prepare an annual report of fund activities. Such reports shall
14 include, but not be limited to, audited financial statements.

15 (l) Notwithstanding any other provision of law to the contrary, the department shall be
16 entitled to any information that it deems necessary and appropriate from a retirement
17 system in order that the provisions of Code Section 45-18-103 may be carried out.

18 45-18-103.

19 (a) The actuary employed or retained by the department shall provide technical advice to
20 the department and to the board regarding the operation of the fund.

21 (b) Utilizing the actuarial assumptions most recently adopted by the board, the actuary
22 shall set annual actuarial valuations of normal cost, actuarial liability, actuarial value of
23 assets, and related actuarial present values for the state plan for other post-employment
24 benefits.

25 45-18-104.

26 (a) The department shall have control over the fund established by this chapter. The
27 obligations provided for in this chapter and all administrative expenses shall be paid from
28 the fund. The department may expend moneys from the fund for any purpose authorized
29 by this chapter.

30 (b) The department shall have full power to invest and reinvest its assets, subject to all of
31 the terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of
32 Title 47, the 'Public Retirement Systems Investment Authority Law.' Subject to such
33 terms, conditions, limitations, and restrictions, the department shall have full power to hold,
34 purchase, sell, assign, transfer, and dispose of any securities and investments in which any

1 of the moneys are invested, including the proceeds of any investments and other moneys
2 belonging to the fund.

3 (c) Except as otherwise provided in this chapter, no member of the board or employee of
4 the department shall have any personal interest in the gains or profits from any investment
5 made by the board or use the assets of the fund in any manner, directly or indirectly, except
6 to make such payments as may be authorized by the board or by the commissioner of
7 community health as the executive officer of the board in accordance with this article.

8 45-18-105.

9 (a) The board shall annually determine the minimum annual required contributions
10 sufficient to maintain the fund in an actuarially sound manner in accordance with
11 Governmental Accounting Standards Board Statement No. 43, or any subsequent
12 Governmental Accounting Standards Board statements that may be applicable to the fund.

13 (b) The board may annually establish employer contribution rates in accordance with the
14 state plan for other post-employment benefits.

15 (c) It shall be the responsibility of employers to make contributions to the fund in
16 accordance with the employer contribution rates established by the board."

17 **SECTION 9.**

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