

House Bill 213 (AS PASSED HOUSE AND SENATE)

By: Representative Bridges of the 10<sup>th</sup> and Forster of the 3rd

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated,  
2 relating to deferred compensation plans, so as to repeal a special pay plan for deferred  
3 payment of special compensation to reduce federal tax burden for state employees; to repeal  
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Article 2 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to  
8 deferred compensation plans, is amended by repealing in its entirety Code Section 45-18-37,  
9 relating to special pay plan for deferred payment of special compensation to reduce federal  
10 tax burden for state employees, as follows:

11 "45-18-37.

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

13 ~~(1) 'Special compensation' means compensation for terminal leave and such other~~  
14 ~~compensation as the Board of Trustees of the Employees' Retirement System of Georgia~~  
15 ~~deems appropriate under federal regulations.~~

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

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

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

24 ~~(b) The Board of Trustees of the Employees' Retirement System of Georgia shall establish~~  
25 ~~and administer a special pay plan for the deferred payment of special compensation which~~  
26 ~~reduces the federal tax obligation upon such payments. Such plan shall become effective~~

1 ~~not later than July 1, 2005. Participation in such plan shall be mandatory for all retiring and~~  
2 ~~terminating state employees age 55 and older whose compensation for terminal leave~~  
3 ~~equals \$1,000.00 or more. Payment options from the plan shall include, at a minimum, a~~  
4 ~~lump sum payment to the employee within seven days after payments are made into the~~  
5 ~~plan on his or her behalf in an amount equal to the entire amount of special compensation~~  
6 ~~with earnings thereon, less any mandatory income tax withholding. The board of trustees~~  
7 ~~may contract with any company qualified to do business in this state to provide such~~  
8 ~~benefits.~~  
9 ~~(c) Nothing in this Code section shall be construed so as to affect benefits under Chapter~~  
10 ~~2 of Title 47. Reserved."~~

11

**SECTION 2.**

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