

Senate Bill 156

By: Senators Balfour of the 9th, Cowser of the 46th, Hawkins of the 49th and Stoner of the 6th

AS PASSED

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 provide that counties, municipal corporations, and other political
3 subdivisions may provide post-employment benefits other than retirement or pension
4 benefits; to define certain terms; to provide that such plans may be prefunded to comply with
5 certain financial reporting, disclosure, and actuarial requirements; to provide that such funds
6 shall be held in trust for the intended purpose; to provide that such funds are declared to be
7 public property exempt from state and local taxation; to create the Board of Regents Retiree
8 Health Benefit Fund; to provide for a trust fund to provide for retiree post-employment health
9 care benefits; to define certain terms; to provide for the powers and duties of the Board of
10 Regents of the University System of Georgia; to provide for actuarial services; to provide for
11 related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
15 amended by revising subsection (h) of Code Section 47-20-10, relating to minimum annual
16 employer contributions, as follows:

17 "(h) The minimum funding requirements of this Code section shall not apply to
18 prefunding, in whole or in part, of anticipated future costs of providing ~~health care benefits~~
19 ~~and related expenses including, without limitation, provision of all or part of the cost of~~
20 ~~health insurance coverage and health maintenance organization participation costs other~~
21 ~~post-employment benefits as defined by Governmental Accounting Standards Board~~
22 ~~Statements Number 43 and Number 45~~ for retired employees of a political subdivision
23 including those presently retired and those anticipated to retire in the future, as provided
24 in Code Section 47-20-10.1. Such prefunding may be maintained as part of the same
25 investment pool as the fund receiving employer and employee contributions to pay the cost
26 of providing retirement benefits under any retirement system maintained by the political

1 subdivision for its employees so long as such funds are separately accounted for and
2 separate records are maintained with respect to each fund. Funds maintained by a political
3 subdivision for the purpose of prefunding ~~health care~~ other post-employment benefits for
4 retired employees may be invested and reinvested in accordance with the provisions of
5 Code Section 47-1-12, or Article 7 of Chapter 20 of this title, as applicable, and, for the
6 purposes of that Code section or article and the home rule provisions of the laws and the
7 Constitution of the State of Georgia only, such funds shall be ~~considered~~ treated in the
8 same manner as retirement funds."

9 **SECTION 2.**

10 Said title is further amended by inserting after Code Section 47-20-10 a new Code section
11 to read as follows:

12 "47-20-10.1.

13 (a) Political subdivisions are authorized to establish plans to provide for payment of other
14 post-employment benefits, as defined by Governmental Accounting Standards Board
15 Statements Number 43 and Number 45 for their eligible present and future retirees and
16 other related expenses as described herein. Such benefits may be prefunded by irrevocable
17 trusts or other authorized funding mechanisms subject to the financial reporting, disclosure,
18 and actuarial requirements of Governmental Accounting Standards Board Statements
19 Number 43 and Number 45 or any subsequent Governmental Accounting Standards Board
20 updates or statements that may be applicable. Except as otherwise provided under
21 subsection (c) of this Code section, the plan and assets of any trust or fund so established
22 may be under the governance and investment authority of a retirement system maintained
23 by the political subdivision or other board of trustees established for such purpose;
24 provided, however, that the assets of any other post-retirement benefit plan, trust, or fund
25 shall be separately accounted for and separate records shall be maintained. The prefunded
26 amounts shall be available without fiscal year limitations for other post-employment
27 benefits, as defined by Governmental Accounting Standards Board Statements Number 43
28 and Number 45, and administration costs. All employer contributions, plan participant
29 contributions, appropriations, earnings, and reserves for the payment of obligations under
30 the plan shall be credited to such trust or fund. The amounts remaining in such trust or
31 fund, if any, after other post-employment benefit expenses and administration costs have
32 been paid in any year shall be retained in such trust or fund for future payments until the
33 satisfaction of all plan liabilities under the trust or fund for other post-employment benefits.
34 All prefunded amounts shall be used solely for the payment of plan benefits and
35 administrative costs and for no other purpose.

(b) Prefunded assets of whatever kind or nature of any other post-employment benefit plan or trust, and the earnings or proceeds derived from such investments or assets, are limited to paying other post-employment benefits and administrative costs and are declared to be public property and exempt from taxation by this state, or by any political subdivision of this state, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever.

(c) Employers who are eligible to participate in the Georgia Municipal Employees Benefit System created by Chapter 5 of this title may establish or participate in another post-employment benefit plan, trust, or fund under the governance and investment authority of the board of trustees of the Georgia Municipal Employees Benefit System, notwithstanding any provision of this Code section or Code Section 47-20-10 to the contrary. The assets of any such plan, trust, or fund under the governance and investment authority of the board of trustees of the Georgia Municipal Employees Benefit System may be maintained as part of the same investment pool as the system retirement fund and invested pursuant to the applicable provisions of Article 7 of Chapter 20 of Title 47, notwithstanding any provision of subsection (c) of Code Section 47-5-28 to the contrary, so long as the assets of the plan, trust, or fund and the Georgia Municipal Employees Benefit System retirement fund are separately accounted for and separate records are maintained for the plan, trust, or fund and the Georgia Municipal Employees Benefit System retirement fund."

SECTION 3.

22 Said title is further amended by revising Chapter 21, the "Regents Retirement Plan Act," by
23 designating the existing provisions of said chapter as Article 1 and by adding a new article
24 to read as follows:

"ARTICLE 2

26 47-21-20.

27 As used in this article, the term:

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

33 (2) 'Actuarially sound' means that calculated contributions to the fund are sufficient to
34 pay the full actuarial cost of the fund. The full actuarial cost includes both the normal

1 cost of providing for fund obligations as they accrue in the future and the cost of
2 amortizing the unfunded actuarial accrued liability over a period of no more than 30
3 years.

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

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

10 (5) 'Board' means the Board of Regents of the University System of Georgia.

11 (6) 'Covered health care expenses' means all actual health care expenses incurred by the
12 health plan with respect to fund beneficiaries. Actual health care expenses include claims
13 incurred with respect to fund beneficiaries and premiums incurred with respect to
14 intermediary entities and health care providers by the health plan.

15 (7) 'Employer' means the Board of Regents of the University System of Georgia and any
16 department or institution of thereof that employs persons who are eligible to participate
17 in the health plan.

18 (8) 'Fund' means the Board of Regents Retiree Health Benefit Fund established under
19 this article.

20 (9) 'Health plan' means the board's health insurance plans established pursuant to
21 authority granted to the board pursuant to Code Sections 20-3-31 and 20-3-51.

22 (10) 'Obligations' means the administrative expenses of the fund and the cost of covered
23 health care expenses incurred on behalf of fund beneficiaries less any amounts received
24 by or on behalf of fund beneficiaries.

25 47-21-21.

26 (a) There is created the Board of Regents Retiree Health Benefit Fund to provide for the
27 employer costs of retiree post-employment health insurance benefits. The fund shall be a
28 trust fund of public funds. The board in its official capacity shall be its trustee and the
29 Chancellor in his or her official capacity shall be its administrator.

30 (b) The fund shall be available and dedicated without fiscal year limitations for covered
31 health care expenses and administration costs. All employer and retiree contributions,
32 appropriations, earnings, and reserves for the payment of obligations under this article shall
33 be irrevocably credited to such fund. The amounts remaining in such fund, if any, after
34 such health care expenses and administration costs have been paid shall be retained in such
35 fund as a special reserve for covered health care expenses and administration costs. The
36 board shall determine the time and amounts of distributions from the special reserve for

1 covered health care expenses and administration costs. All assets of the fund shall be used
2 solely for the payment of fund obligations and for no other purpose and shall be protected
3 from creditors of the state and the board.

4 47-21-22.

5 (a) Responsibility for the proper operation of the fund is vested in the board.

6 (b) The board shall:

7 (1) Adopt actuarial assumptions as necessary and prudent;

8 (2) Employ such personnel as may be needed to carry out the provisions of this article
9 and such personnel shall be employees of the board. The pro rata share of the costs of
10 operating the board in the manner prescribed by law shall be a part of the administrative
11 costs of the fund;

12 (3) Maintain all necessary records regarding the fund in accordance with generally
13 accepted accounting principles, as applied to the fund;

14 (4) Collect all moneys due to the fund and shall pay any administrative expenses
15 necessary and appropriate for the operation of the fund from the fund; and

16 (5) Cause to be prepared an annual report of fund activities. Such report shall include,
17 but not be limited to, audited financial statements.

18 (c) The board may:

19 (1) Adopt any rules and regulations that it finds necessary to properly administer the
20 fund;

21 (2) Employ or contract for the services of actuaries and other professionals as required
22 to carry out the duties established by this article; and

23 (3) Contract with the Division of Investment Services of the Teachers Retirement System
24 of Georgia or such other investment advisors as deemed appropriate and prudent by the
25 board for any necessary services with respect to fund investments.

26 (d) Notwithstanding any other provision of law to the contrary, the board shall be entitled
27 to any information that it deems necessary and appropriate from a university employee
28 retirement system in order that the provisions of this article may be carried out.

29 47-21-23.

30 (a) The actuary employed or retained by the board shall provide technical advice to the
31 board regarding the operation of the fund.

32 (b) Utilizing the actuarial assumptions most recently adopted by the board, the actuary
33 shall set the annual actuarial present values for the state plan for other post-employment
34 benefits.

1 47-21-24.

2 (a) The board shall have control over the fund established by this article. The provisions
3 provided for in this article and all administrative expenses shall be paid from the fund. The
4 board may expend moneys from the fund for any purpose authorized by this article.

5 (b) The board shall have full power to invest and reinvest its assets, subject to all of the
6 terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of Title
7 47, the 'Public Retirement Systems Investment Authority Law.' Subject to such terms,
8 conditions, limitations, and restrictions, the board shall have full power to hold, purchase,
9 sell, assign, transfer, and dispose of any securities and investments in which any of the
10 moneys are invested, including the proceeds of any investments and other moneys
11 belonging to the fund.

12 (c) Except as otherwise provided in this chapter, no member or employee of the board
13 shall have any personal interest in the gains or profits from any investment made by the
14 board or use the assets of the fund in any manner, directly or indirectly, except to make
15 such payments as may be authorized by the board in accordance with this article.

16 47-21-25.

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

21 (b) The board may annually establish employer contribution rates for the purpose of
22 establishing the health plan from fiscal year to fiscal year and additional employer
23 contribution rates in accordance with the health plan for other post-employments benefits.

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

SECTION 4.

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