

The Senate Retirement Committee offered the following substitute to SB 328:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to the
2 Employees' Retirement System of Georgia, so as to provide for retirement provisions
3 applicable to persons who first or again become members on or after January 1, 2009; to
4 provide a short title; to provide for a service retirement allowance; to provide for employee
5 and employer contributions; to provide for an option of coverage for current members; to
6 provide for a calculation of benefits; to provide for the applicability of certain provisions; to
7 provide that only membership service shall constitute creditable service except in certain
8 circumstances; to provide for the calculation of disability and death benefits; to provide for
9 the examination and reexamination of disability beneficiaries; to create a defined
10 contribution plan available to such members; to define certain terms; to provide for employer
11 and employee contributions; to provide for vesting; to provide for forfeiture; to provide for
12 administration; to provide for related matters; to provide conditions for an effective date and
13 automatic repeal; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to the Employees'
16 Retirement System of Georgia, is amended by adding a new article to read as follows:

"ARTICLE 10

18 47-2-350.

19 This article shall be known and may be cited as the 'Georgia State Employees' Pension and
20 Savings Plan.'
21

1 47-2-351.

2 (a) Except where indicated clearly to the contrary by the context, the word 'member' as
3 used in this article shall mean any employee who first or again becomes a member of the
4 Employees' Retirement System of Georgia on or after January 1, 2009. From and after
5 January 1, 2009, every person first or again becoming an employee entitled to a new
6 membership in the Employees' Retirement System of Georgia shall become a member
7 subject to this article. Any provision of this chapter providing that a class of employees
8 shall be subject to Code Section 47-2-334 shall be deemed to have been amended by this
9 subsection.

10 (b) Membership under this article shall be optional for any persons who are within the
11 membership of the Employees' Retirement System of Georgia on December 31, 2008. Any
12 such persons may elect in writing on a form to be provided by the board of trustees to
13 become a member subject to this article at any time on or after January 1, 2009. This
14 written election shall become effective upon the approval of the application by the board
15 of trustees as provided in rules and regulations promulgated by the board of trustees and
16 shall be final and cannot be later changed or rescinded. Upon such election, a member
17 shall be subject to all the provisions, terms, and conditions of this article; provided,
18 however, that the calculation to determine retirement allowances for any person exercising
19 such option shall be made as follows:

20 (1) The retirement allowance shall be computed fully as if all creditable service of the
21 member were acquired and calculated under the provisions of this article;

22 (2) Then the retirement allowance shall also be computed fully as if all creditable service
23 of the member were acquired and calculated under the provisions of this chapter
24 contained other than in this article and the rules and regulations of the board of trustees;

25 (3) Then a benefit amount shall be determined based upon a fractional part of each
26 retirement allowance computed in paragraphs (1) and (2) of this subsection, which
27 fractional part shall be computed by using the actual years of creditable service
28 established under either this article, for paragraph (1) of this subsection, or the provisions
29 of this chapter contained other than in this article, for paragraph (2) of this subsection,
30 which number of years shall be the numerator of the fraction, over the total actual years
31 of creditable service established under both this article and the provisions of this chapter
32 contained other than in this article, which number shall be the denominator of the
33 fraction;

34 (4) The two benefit amounts so determined shall then be added together to produce the
35 actual retirement allowance; and

36 (5) Projected years of service shall not be used in the computation of the retirement
37 allowances under this subsection.

1 47-2-352.

2 (a) Every member subject to this article shall contribute employee membership
3 contributions in an amount equal to 1 1/4 percent of earnable compensation, which shall
4 be deducted by each employer from the earnable compensation of each member for each
5 and every payroll period and paid monthly to the board of trustees. Such amount shall be
6 credited to the individual accounts of the members in the annuity savings fund.

7 (b) From and after January 1, 2009, each employer shall pay monthly to the board of
8 trustees, on behalf of each member subject to this article, the aggregate of employer and
9 employee contributions required by this chapter. With respect to members subject to this
10 article, no employer contributions shall be considered as accumulated contributions of the
11 member and none shall be eligible for withdrawal by the member upon cessation of state
12 service. Such amount shall be credited to the pension accumulation fund.

13 47-2-353.

14 Every member subject to this article shall, upon becoming eligible under the provisions of
15 this chapter, be entitled to a service retirement allowance, which shall consist of:

16 (1) An annuity which shall be the actuarial equivalent of the member's accumulated
17 contributions at the time of retirement; and

18 (2) A monthly pension which, together with the annuity, shall provide a total retirement
19 allowance equal to 1 percent of the member's highest average monthly earnable
20 compensation during a period of 24 consecutive calendar months while a member of the
21 retirement system, multiplied by the number of the member's years of creditable service.

22 47-2-354.

23 (a) Members subject to this article shall be subject to the following conditions:

24 (1) The following provisions shall not be applicable to members subject to this article:

25 (A) Subsection (d) of Code Section 47-2-120;

26 (B) Paragraph (1) of subsection (c) of Code Section 47-2-123;

27 (C) Code Section 47-2-124; and

28 (D) Code Section 47-2-334;

29 (2) Except as provided in Chapter 1 of this title and in Code Sections 47-2-99 and
30 47-2-100, no service shall constitute creditable service except membership service for
31 which the full rate of employee membership contributions and employer contributions
32 is made pursuant to Code Section 47-2-352. The provisions of this paragraph shall not
33 affect the transfer of creditable service between public retirement systems created by this
34 title under such conditions as are now or may hereafter be provided by law;

1 (3) The provisions of Code Section 47-2-91 shall be applicable to members subject to
2 this article; provided, however, that such benefits shall be subject to reduction or repeal
3 by subsequent legislation and shall not be considered an element of any contract of
4 employment;

5 (4) Disability benefits shall be calculated as provided in paragraph (2) of subsection (c)
6 of Code Section 47-2-123; provided, however, that the disability benefits of persons
7 entitled to the provisions of Code Section 47-2-221 shall be calculated as provided in
8 such Code section but with the benefit computed on 1 percent of the member's monthly
9 earnable compensation;

10 (5) Members subject to the provisions of this article shall not be entitled to group term
11 life insurance coverage pursuant to Code Section 47-2-128 or 47-2-129; and

12 (6) Members subject to Code Section 47-2-244 shall be entitled to the provisions of such
13 Code section.

14 (b) All members subject to this article shall have and be subject to all other rights,
15 privileges, obligations, and duties specified by other provisions of this chapter, and all such
16 other provisions shall be of full force and effect with respect to any matter not specifically
17 provided for in this article.

18 47-2-355.

19 (a)(1) Subject to the provisions of paragraphs (2) through (5) of this subsection, any
20 member in service who has at least 15 years of creditable service who become disabled
21 in service before becoming eligible to receive a service retirement allowance may be
22 retired on a disability allowance by the board of trustees, upon written application to the
23 board of trustees by the member or his or her employer and upon certification by the
24 medical board that he or she is medically or physically incapable of further performance
25 of his or her duties in the position he or she held at the time his or her disability
26 originated, that incapacity is likely to be permanent, and that he or she should be retired;
27 provided, however, that the medical board shall not consider any evidence of such
28 disability which is not submitted within 12 months after the date the member submits his
29 or her first application for a disability retirement. The board of trustees may retire such
30 member not less than 30 days nor more than 90 days after execution and filing of the
31 written application.

32 (2) A member making application for a disability retirement pursuant to paragraph (1)
33 of this subsection shall at the same time submit a copy of such application together with
34 any supporting documentation accompanying such application to his or her employing
35 agency. The member shall thereafter provide the employing agency with any additional

1 information or documentation which he or she submits to the board of trustees in
2 conjunction with such application.

3 (3) After receipt of the notice provided for in paragraph (2) of this subsection, the head
4 of the member's agency or his or her designee shall conduct an interview with the
5 member applying for disability retirement; provided, however, that any designee of the
6 head of an agency shall be an official at such agency who is above the level of the
7 applicant's immediate supervisor and who has the authority to make job assignment
8 decisions. The interview shall be held within ten business days after receipt of such
9 notice. Based on the interview and information received by the agency pursuant to
10 paragraph (2) of this subsection, the agency head or his or her designee shall determine
11 if an alternative position is available for the member which meets the following
12 requirements:

13 (A) The physical requirements for such position are compatible with the member's
14 physical limitations;

15 (B) The annual compensation and possibility for future advancement for such position
16 shall be the same as or greater than that of the current position of the member;

17 (C) The duties for such position shall be reasonably compatible with the experience
18 and educational qualifications of the member;

19 (D) The position shall be one which includes the holder thereof as a member of the
20 retirement system provided for by this chapter; and

21 (E) The position must be available for acceptance by the member and an offer of the
22 position to the official or member must be made, in writing, by not later than 45 days
23 after the member submitted his or her application for a disability retirement.

24 An agency making an offer of alternative employment as provided in this paragraph shall
25 so notify the board of trustees within 45 days after the member submitted his or her
26 application for a disability retirement. After receipt of such notice, the board of trustees
27 shall not approve a disability retirement until the procedures of paragraph (4) of this
28 subsection are resolved.

29 (4) Any member applying for a disability retirement who is offered a position of
30 employment in conformity with the requirements of paragraph (3) of this subsection shall
31 accept the offer or dispute his or her ability to perform the tasks required by the position
32 offered by submitting a written appeal to the agency and to the board of trustees within
33 30 days after receiving the offer. In the event of an appeal, the agency shall promptly
34 submit to the medical board a detailed description of the requirements of the position
35 offered and the medical board shall determine, based upon all information available to
36 it, whether the member is reasonably capable of performing such tasks. The decision of
37 the medical board shall be final. If the medical board determines that the member is

1 unable to perform the tasks required either by the position held at the time of the
2 application for a disability retirement or the position offered, the member shall be placed
3 on disability retirement immediately.

4 (5) A member who refuses to accept a position offered or file an appeal in a timely
5 manner or who refuses to accept a position which the medical board has determined on
6 appeal that he or she is capable of performing shall not be eligible to receive a disability
7 retirement under this subsection.

8 (b) Any member who has at least 15 years of creditable service and who becomes disabled
9 in service before becoming eligible to receive a service retirement allowance shall be
10 eligible to retire forthwith without regard to age and to receive the equivalent of a service
11 retirement allowance calculated upon the number of years of creditable service attained to
12 the date of retirement and based upon his or her highest average monthly compensation
13 during a period of 24 consecutive calendar months while a member of the retirement
14 system. No member who is eligible to receive a service retirement benefit shall be eligible
15 to apply for or receive a disability benefit.

16 (c)(1) Once each year during the first five years following the retirement of a member on
17 a disability retirement allowance and once in every three-year period thereafter, the board
18 of trustees may require a disability beneficiary who has not yet attained retirement age
19 as specified in subsection (a) of Code Section 47-2-110 to undergo a medical
20 examination, such examination to be made at a place designated by the board, by
21 physicians designated by the medical board. The disability beneficiary may request such
22 an examination. Should any disability beneficiary who has not yet attained retirement
23 age refuse to submit to such medical examination, the pension of such disability
24 beneficiary may be discontinued by the board of trustees until the withdrawal of such
25 refusal; and should the refusal continue for one year, all rights of the disability
26 beneficiary in and to a pension may be revoked by the board of trustees. Should the
27 medical board report and certify to the board of trustees that a disability beneficiary is
28 engaged in or is able to engage in a gainful occupation paying more than the difference
29 between the disability beneficiary's retirement allowance and the earnable compensation
30 used to calculate the disability retirement allowance at the time of retirement, the board
31 of trustees may reduce the disability beneficiary's pension to an amount which, together
32 with the disability beneficiary's annuity and the amount earnable by the disability
33 beneficiary, equals the earnable compensation used to calculate the disability retirement
34 allowance at the time of retirement. Should the disability beneficiary's earning capacity
35 be later changed, the amount of the pension may be further modified, provided that the
36 modified pension shall not exceed an amount which, together with the disability
37 beneficiary's annuity and the amount earnable by the disability beneficiary, equals the

1 earnable compensation used to calculate the disability retirement allowance at the time
2 of retirement.

3 (2) The board of trustees may require a disability beneficiary who has not yet attained
4 retirement age as specified in subsection (a) of Code Section 47-2-110 to provide
5 information relevant to any provision of this chapter relating to his or her entitlement to
6 receive a disability retirement. Should any disability beneficiary who has not yet attained
7 retirement age refuse to submit any such information so requested, the board of trustees
8 may suspend the retirement allowance of such disability beneficiary until such
9 information is provided. Should the board of trustees receive information from any
10 source that a disability beneficiary is engaged in an occupation paying more than the
11 difference between the disability beneficiary's retirement allowance and the earnable
12 compensation used to calculate the disability retirement allowance at the time of
13 retirement, the board of trustees may reduce the disability beneficiary's pension to an
14 amount which, together with the disability beneficiary's annuity and the amount earnable
15 by the disability beneficiary, equals the earnable compensation used to calculate the
16 disability retirement allowance at the time of retirement. Should the disability
17 beneficiary's earnings later be changed, the amount of the pension may be further
18 modified, provided that the modified pension shall not exceed an amount which, together
19 with the disability beneficiary's annuity and the amount earnable by the disability
20 beneficiary, equals the earnable compensation used to calculate the disability retirement
21 allowance at the time of retirement.

22 47-2-356.

23 (a) Any member who has at least 15 years of creditable service and who dies in service
24 before becoming eligible for a service retirement shall be eligible to retire forthwith
25 without regard to age and to receive the equivalent of a service retirement allowance
26 calculated upon the number of years of creditable service attained to the date of retirement
27 and based upon his or her highest average monthly compensation during a period of 24
28 consecutive calendar months while a member of the retirement system. Any member who
29 dies in service after becoming eligible for a service retirement shall be eligible to retire
30 forthwith to receive a service retirement allowance.

31 (b) In the application of this subsection to death allowances, computations of retirement
32 allowances shall be made on the same basis as though option two had been in effect. In
33 lieu of the amount of death allowance otherwise payable to the beneficiary under option
34 two, the member, upon written request, may at any time elect a reduced level death
35 allowance of equivalent actuarial value, which allowance is payable to the beneficiary
36 during a period of years certain or to the estate of the beneficiary and during the lifetime

1 of such named beneficiary thereafter. At the election of the member, in case of death of
 2 the beneficiary during a term of years certain, the balance of the years certain payments
 3 may be paid to the estate of the member; but if such beneficiary predeceases the member,
 4 the total amount of the member's contributions to the date of his or her death shall be
 5 payable to the member's estate. The method of determining the equivalent actuarial value
 6 shall be consistent with the actuarial method of determining the beneficiary's death
 7 allowance under option two.

8 47-2-357.

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

10 (1) '401(k)' means the deferred compensation plan offered by the state for public
 11 employees pursuant to Article 3 of Chapter 18 of Title 45 utilizing Section 401(k) of the
 12 federal Internal Revenue Code.

13 (2) 'Plan' means the employee savings plan created by this article.

14 (b) Except as provided in paragraph (1) of this subsection, participation in the plan shall
 15 be voluntary and shall be available only to members subject to this article. Members who
 16 elect to participate in the plan shall be entitled to an employer contribution as follows:

17 (1) For each pay period, the employer shall contribute to the member's 401(k) account
 18 an amount equal to the amount the member contributes, up to 1 percent of the member's
 19 gross salary. Such member contribution shall be mandatory unless prohibited by federal
 20 law;

21 (2) After the 1 percent level provided for in paragraph (1) of this subsection has been
 22 met, the employer shall contribute an amount equal to 50 percent of such amount as the
 23 member contributes, up to an additional 2 percent of the member's gross salary; and

24 (3) The member may make such additional contributions as he or she wishes, subject to
 25 limitations imposed by federal law.

26 (4) The board of trustees shall apportion the costs of administering the plan among the
 27 employers and members on the basis of the normal costs of administration against any
 28 special services requested by any member.

29 (c) All contributions by participating members are 100 percent vested and shall be
 30 maintained in an account and invested based on the participant's investment allocation
 31 choices. All employer contributed amounts credited to a member's account shall be
 32 maintained as a matching contribution subaccount and invested based on the participant's
 33 investment allocation choices. Any and all amounts credited to a member's matching
 34 contribution subaccount, including applicable earnings and investment appreciation or
 35 depreciation, shall become vested and nonforfeitable based on the number of employment
 36 service years completed and in accordance with the vesting schedule set forth below:

Years of Service	Employer Nonforfeitable Vested Percentage
1	20
2	40
3	60
4	80
5	100

Upon separation from service for greater than 31 days, the portion of such matching contribution subaccount not so vested shall be transferred from the member's account into a temporary plan forfeiture accumulation account for future disposition as determined by the board of trustees. A break in service less than 32 days shall not affect vesting rights.

(d) Members electing to be governed by the provisions of this article pursuant to subsection (b) of Code Section 47-2-351 shall use their date of election as the beginning date for purposes of calculating their vesting service for the employer contribution as provided in subsection (c) of this Code section used to calculate the vesting requirements of subsection (c) of this Code section, except that service as provided under Code Section 47-2-91 shall not constitute creditable service for this purpose.

47-2-358.

This article shall not be construed and is not intended to have any effect whatsoever on persons within the membership of the Employees' Retirement System of Georgia on December 31, 2008, who do not elect in writing to become members subject to this article.

47-2-359.

The provisions of this article shall control over conflicting or inconsistent provisions of this chapter or any other law of this state. It is the intention of the General Assembly that this article has not been and may not be repealed, superseded, or modified by implication through the enactment of any other law or through the amendment of any other provision of this chapter or any other existing law, and any modification or repeal of any provision of this article may be accomplished only by reference or amendment to or repeal of this specific article.

47-2-360.

The board of trustees shall have the responsibility of administering the provisions of this article and shall promulgate such rules and regulations as are necessary to carry out the provisions of this article."

SECTION 2.

1
2 This Act shall become effective on July 1, 2008, only if it is determined to have been
3 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
4 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
5 become effective and shall be automatically repealed in its entirety on July 1, 2008, as
6 required by subsection (a) of Code Section 47-20-50.

SECTION 3.

7
8 All laws and parts of laws in conflict with this Act are repealed.