

House Bill 1150 (COMMITTEE SUBSTITUTE)

By: Representatives Weldon of the 3<sup>rd</sup>, Maxwell of the 17<sup>th</sup>, Benton of the 31<sup>st</sup>, Bryant of the 160<sup>th</sup>, Gordon of the 162<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to define certain terms relative to the Georgia Firefighters' Pension Fund; to make certain editorial corrections; to provide for related matters; to repeal Chapter 7A of said title, relating to the Georgia Class Nine Fire Department Pension Fund; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is amended by revising paragraph (2) of Code Section 47-7-1, relating to definitions relative to the Georgia Firefighters' Pension Fund, as follows:

"(2) 'Fire department' means a full-time fire department or volunteer fire department or a combination full-time and volunteer fire department which satisfies the following criteria:

(A) The fire department is certified by the superintendent of the Georgia ~~Fire Academy~~ Firefighter Standards and Training Council as provided in ~~Chapter 3 Article 1 of Chapter 4~~ of Title 25; and

(B) The public fire suppression facilities of the fire department are ratable not less favorably than a class ~~eight~~ nine rating under standards set forth in the Fire Suppression Rating Schedule, Section I, Public Fire Suppression, Edition 6-80, Copyright 1980, published by the Insurance Services Office, a rating organization licensed by the Commissioner of Insurance, which schedule is maintained on file with the Commissioner of Insurance as required by general law and which has not been disapproved by the Commissioner, or less than a rating which the board by regulation determines is substantially equivalent under rating standards published by a rating organization licensed by the Commissioner of Insurance performing similar rating

functions which standards are maintained on file with the Commissioner of Insurance and which have not been disapproved by the Commissioner.

The board may require annual certification by the chief of a fire department of the satisfaction of such requirements as a condition to the eligibility of firefighters and volunteer firefighters to become members of the fund to obtain creditable service with the fund."

## SECTION 2.

Said title is further amended by revising paragraph (3) of Code Section 47-7-1, relating to definitions relative to the Georgia Firefighters' Pension Fund, as follows:

"(3) 'Firefighter' means a person who is:

(A) A full-time employee of a fire department who in the course of ~~full-time~~ his or her employment by and within a department either is a candidate for or holds a current firefighter's certificate issued under Article 1 of Chapter 4 of Title 25 and has as incident to his or her position of employment the principal duty of, and actually performs the function of, preventing and suppressing fires; provided, however, that such term shall not include persons whose primary responsibility is the performance of emergency medical services; or

(B) Appointed and regularly enrolled as a volunteer with a ~~class nine fire department;~~ volunteer fire department or combination full-time and volunteer fire department which satisfies the requirements specified in subparagraph (a)(1)(D) of Code Section 25-3-23 and who, as a volunteer firefighter, has and primarily performs the principal responsibility of preventing or suppressing fires; ~~and who satisfies the requirements specified in subparagraph (a)(1)(D) of Code Section 25-3-23.~~"

## SECTION 3.

Said title is further amended by revising paragraph (3) of subsection (a) of Code Section 47-7-61, relating to tax on premiums charged by fire insurance companies for certain classes of coverage, exclusions, and penalty for failure to report and pay such tax, as follows:

"(3) Returns shall be made on forms prescribed by the board. Such forms shall require, without limitation, a separate statement of the gross premiums from policies covering property served by public fire suppression facilities of the fire department rated as ~~class nine and those rated~~ not less than class ~~eight~~ nine under the standards set forth in the Fire Suppression Rating Schedule or a rating which the board determines is its substantial equivalent."

**SECTION 4.**

Said title is further amended by revising paragraph (2) of subsection (e) of Code Section 47-7-61, relating to tax on premiums charged by fire insurance companies for certain classes of coverage, exclusions, and penalty for failure to report and pay such tax, as follows:

"(2) A taxpayer whose timely claim for refund is denied or has not been decided by the board within 180 days after it is filed may bring an action for a refund of not more than the amount set forth in the claim. Such action shall be brought in the superior court of the county in which the board's principal office is located. Such action shall name as the defendant the Georgia Firefighters' Pension Fund and not members of the board or any officer or employee of the board. Service of the summons and complaint in such action shall be made upon the ~~secretary-treasurer~~ executive director of the fund. No such action shall be commenced after the expiration of 180 days after the claim has been denied by the board or, if the board has not acted on the claim, within one year of the date the claim was filed with the board."

**SECTION 5.**

Said title is further amended by revising subparagraph (d)(3)(C) of Code Section 47-7-100, relating to eligibility for full pension benefits, optional pension benefits, vesting of rights to pension benefits, and early retirement provisions relative to the Georgia Firefighters' Pension Fund, as follows:

"(C) If, following the death of the member's spouse or the entry of a final judgment of divorce between the member and the member's spouse, the member remarries, the member may, in writing on forms prescribed by the board and subject to approval by the board, elect Option A with respect to the member's new spouse. The joint and survivor benefit shall be determined as of the date of the election. ~~No such election shall be made until the expiration of one year after the date of remarriage or until a child of the remarried couple is born, whichever is earlier.~~"

**SECTION 6.**

Said title is further amended by revising Code Section 47-7-103, relating to benefits payable to a named beneficiary upon death of a member of the Georgia Firefighters' Pension Fund before benefits have commenced or before benefits equal to the member's dues have been paid, as follows:

"(a) In the event of the death of a member of the fund who is in good standing and who has not commenced receiving any benefits under this chapter, the designated beneficiary of such deceased member shall be entitled to be paid the amount of \$5,000.00, upon making proper application to the ~~secretary-treasurer~~ executive director of the fund. Such

application shall be accompanied by a certified copy of the death certificate of the deceased member and such other information as may be required by the board.

(b) In the event of the death of a member of the fund who is in good standing, who has not elected survivor benefits under Option A or B as provided for in subsection (d) of Code Section 47-7-100, and who has commenced receiving benefits under this chapter, but who has not received total benefits in an amount equal to \$5,000.00, the member's named beneficiary shall be entitled to receive the difference between \$5,000.00 and the amount of benefits received by such deceased member, upon making application as provided for in subsection (a) of this Code section."

#### SECTION 7.

Said title is further amended by revising Code Section 47-7-104, relating to benefits payable to volunteer firefighters erroneously found to be eligible for such payments, as follows:

"47-7-104.

Any other provisions of law to the contrary notwithstanding:

(1) Any person who served as a volunteer firefighter prior to March 3, 1955, and who began receiving retirement benefits at a later date from the fund, based on the board of trustees' belief that such person was eligible for such benefits, but whose retirement benefits were ceased or canceled by the board of trustees based upon its subsequent realization that such person was not in fact eligible for such benefits; or

(2) Any person who left service as a volunteer firefighter after receiving written notice from the ~~secretary-treasurer~~ executive director of the fund that ~~he~~ such person was eligible for retirement benefits except for not having reached the age of 60 years, which written notice was later determined by the board to be erroneous, shall be eligible to receive the retirement benefits under this chapter in the same manner as if such service had been rendered in a class ~~eight~~ nine or better fire department, regardless of the fact that such service was not rendered in a class ~~eight~~ nine or better fire department."

#### SECTION 8.

Said title is further amended by revising subsection (a) of Code Section 47-7-124, relating to disposition of funds abandoned by members of the Georgia Firefighters' Pension Fund separated from the service, notice, and limitation on asserting certain claims, as follows:

"(a) No claim shall be made against the fund for benefits or the return of contributions after the lapse of seven years from the date on which the ~~secretary-treasurer~~ executive director of the fund shall have mailed by first-class mail to the last known address of the firefighter or volunteer firefighter or other person eligible therefor, as such address is reflected by the

records of the fund, a written notice that the firefighter or volunteer firefighter or other eligible person is or may be eligible for such benefits or return of contributions; and, in the event any claim for benefits or the return of contributions is barred in accordance with this subsection, the amounts thereof shall be the property of the Georgia Firefighters' Pension Fund. The bar period prescribed by this subsection shall not begin to run with respect to a firefighter or volunteer firefighter on leave of absence who has elected to leave his or her contributions in the fund until the failure of the firefighter or volunteer firefighter to provide written confirmation of his or her election to remain on leave of absence within 60 days of a not more frequent than biennial request for such confirmation mailed to the last known address of such firefighter or volunteer firefighter, as such address is reflected by the records of the fund."

#### **SECTION 9.**

Said title is further amended by repealing in its entirety Chapter 7A, relating to the Georgia Class Nine Fire Department Pension Fund.

#### **SECTION 10.**

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