

House Bill 974 (AS PASSED HOUSE AND SENATE)

By: Representatives Maxwell of the 17<sup>th</sup> and Benton of the 31<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 17 of Title 47 of the Official Code of Georgia Annotated, relating to the  
2 Peace Officers' Annuity and Benefit Fund, so as to provide that a member seeking creditable  
3 service for a period of absence from duty must have returned to service; to change the vesting  
4 period; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Chapter 17 of Title 47 of the Official Code of Georgia Annotated, relating to the Peace  
8 Officers' Annuity and Benefit Fund, is amended by revising Code Section 47-17-41, relating  
9 to retention of membership during absence from employment as a peace officer, credit for  
10 such period, and payments due from the member for such period, as follows:

11 "47-17-41.

12 The board may provide by rule and regulation for the retention of any legally qualified  
13 member who has temporarily ceased employment as a peace officer and for credit for such  
14 period, provided that an application for retention of membership is submitted not later than  
15 90 days after such employment has ceased; and provided, further, that he or she shall pay  
16 to the fund the amounts required for such period. Such member may obtain one month of  
17 such credit for each month of active membership performed after the period of  
18 unemployment as a peace officer; provided, however, that not ~~Not~~ more than 12 months  
19 of absence from such employment shall be allowed under this Code section during a  
20 member's entire membership in the fund."

21 SECTION 2.

22 Said chapter is further amended by revising Code Section 47-17-80, relating to retirement  
23 benefit options, payment to surviving spouse, requirements, effect of reemployment, effect  
24 of changes in retirement benefits, and payment on death of member, as follows:

25 "47-17-80.

26 (a) At the time a member qualifies for retirement payments, such member must choose a  
27 payment option provided for in this Code section. A member shall become eligible to  
28 begin receiving benefits on the first day of the month following the month in which the  
29 member qualified for retirement and terminated active employment as a peace officer. A  
30 member shall present to the secretary-treasurer a completed application form for retirement  
31 benefits. The application shall contain such information as the board shall require. After  
32 approval by the board, the secretary-treasurer shall pay to such retired member a monthly  
33 sum based on the option chosen by the member. If a married member with a spouse then  
34 living is unable to choose an option provided for in this Code section and to complete an  
35 application form because of death, mental incompetency, or other providential cause, then  
36 Option Two shall become effective.

37 (b) Option One shall consist of a single life annuity payable in monthly payments for the  
38 life of the member only. The monthly payment under this option shall be an amount equal  
39 to \$17.50 per month for each full year of creditable service and in the event the member  
40 shall have additional service credit not totaling a full year, the further sum of one-twelfth  
41 of the amount paid per month for each additional year of service credit shall be paid for  
42 each month of additional service credit, provided that the member either has at least ten  
43 years of membership service, or 15 years for members who become members on or after  
44 July 1, 2010, and is at least 55 years of age or has at least 30 years of creditable service,  
45 regardless of age. Such monthly benefit payment shall be paid on each full year and  
46 additional full months of creditable service up to a maximum of 30 years of total service.  
47 No member shall be eligible for benefits under this option until the member's official duties  
48 as a peace officer have been terminated, except as otherwise provided in this chapter, and  
49 unless the member files an application for retirement benefits within 90 days from the date  
50 of the termination of the member's official duties as a peace officer, unless prevented  
51 therefrom for good cause. If such member shall qualify for retirement benefits in every  
52 respect except for completion of payment of monthly dues for the periods of time for which  
53 the member has received service credit, dues shall be deducted from the member's monthly  
54 benefit check until such dues have been paid in full. Any member who has at least ten  
55 years of membership service, or 15 years for members who become members on or after  
56 July 1, 2010, for which dues have been fully paid but who has not reached 55 years of age  
57 may cease paying monthly dues into the fund if the member's employment as a peace  
58 officer is terminated; and upon reaching 55 years of age the member may be eligible to  
59 receive retirement benefits under this option.

60 (c) Option Two shall consist of a 100 percent joint life annuity payable during the life of  
61 the member or the member's spouse. The amount of monthly payment to be paid under this

62 option shall be based on the date the member first becomes eligible to receive pension  
63 benefits (normal retirement date) and shall be computed so as to be actuarially equivalent  
64 to the monthly retirement payment which would have been paid to the member under  
65 Option One. Such actuarial equivalence shall be computed on the interest rate and  
66 mortality basis approved from time to time by the board, the age of the member, and, if  
67 applicable, the age of his or her spouse as of the date benefits are to commence or as of the  
68 date benefits would have commenced if the member had retired after first becoming  
69 eligible for full benefits, whichever is earlier.

70 (d) Option Three shall consist of a contingency life annuity with a 50 percent monthly  
71 payment to the surviving spouse. The amount of monthly payment to be paid under this  
72 option shall be based on the date the member first becomes eligible to receive pension  
73 benefits (normal retirement date) and shall be computed so as to be actuarially equivalent  
74 to the monthly retirement payment which would have been paid to the member under  
75 Option One. Such actuarial equivalence shall be computed on the interest rate and  
76 mortality basis approved from time to time by the board, the age of the member, and, if  
77 applicable, the age of his or her spouse as of the date benefits are to commence or as of the  
78 date benefits would have commenced if the member had retired after first becoming  
79 eligible for full benefits, whichever is earlier.

80 (e)(1) Under Option Two or Option Three, if the surviving spouse remarries, any benefits  
81 payable to the surviving spouse shall terminate as of the date of such remarriage.

82 (2) Under Option Two or Three, a retired member may revoke the election of any such  
83 option at any time after the entry of a final judgment of complete divorce from the retired  
84 member's spouse or the retired member may elect to continue under Option Two or Three  
85 for the benefit of the former spouse. Upon any such revocation, the retired member shall  
86 begin receiving the monthly retirement benefit which the retired member would have  
87 been entitled to receive under Option One. In the event any such retired member  
88 remarries after divorce from the former spouse and the retired member elected to revoke  
89 Option Two or Three as provided in this paragraph, the retired member may elect to  
90 begin receiving the applicable reduced monthly retirement benefit of equivalent actuarial  
91 value and reestablish on behalf of the new spouse the same option which was applicable  
92 to the former spouse. Such actuarial equivalence shall be based on the age of the retired  
93 member and the age of the retired member's new spouse at the time of such election and  
94 shall be computed on the Mortality Table GA51, with projection, using interest at 6  
95 percent per annum, with a five-year age setback for females and monthly payment  
96 annuity functions. The option on behalf of the new spouse may not be exercised until one  
97 year after the date of remarriage or until a child of the remarried couple is born,  
98 whichever is earlier.

99 (e.1) When a retired member has elected Option Two or Option Three, then in the event  
100 the spouse predeceases the retired member, the monthly retirement benefit payable to the  
101 retired member after the death of the spouse shall be increased to the monthly retirement  
102 benefit which the retired member would have been entitled to receive under Option One.  
103 In the event any such retired member remarries or has remarried after the death of the  
104 former spouse, the retired member may elect to begin receiving the applicable reduced  
105 retirement benefit of equivalent actuarial value and reestablish on behalf of the new spouse  
106 the same option which was applicable to the deceased former spouse, but such option on  
107 behalf of the new spouse may not be reestablished until one year after the date of  
108 remarriage or until a child of the remarried couple is born, whichever is earlier. Actuarial  
109 equivalence under this subsection shall be determined in the same manner that it is  
110 determined under paragraph (2) of subsection (e) of this Code section. This subsection  
111 applies to retired members who retired at any time prior to July 1, 1990, as well as to those  
112 who retire on or after that date, but increases in monthly retirement benefits authorized by  
113 this subsection shall not be paid retroactively for any period of time prior to July 1, 1990,  
114 notwithstanding the fact that a spouse covered under Option Two or Option Three may  
115 have died prior to July 1, 1990.

116 (f) Nothing contained in this Code section shall affect the requirement that a member make  
117 payments into the fund for a minimum period of ten years, or 15 years for members who  
118 become members on or after July 1, 2010, nor shall it affect the requirement that credit for  
119 service after March 1, 1951, shall not be given unless the member has made the required  
120 payments to the fund for all such service. Any peace officer becoming a member of the  
121 fund between April 1, 1953, and March 31, 1965, inclusive, must remain an active member  
122 and, in addition to completing the required years of service, must remit the correct amount  
123 of dues to the fund for a period of three years from the date he or she becomes a member,  
124 irrespective of previous service credited for which dues are paid, before being eligible for  
125 any retirement benefits provided under this Code section. Any peace officer becoming a  
126 member of the fund for the first time on or after April 1, 1965, must remain an active  
127 member and, in addition to completing the required years of service, must remit the correct  
128 amount of dues to the fund for a period of five years from the date he or she becomes a  
129 member, irrespective of previous service credited for which dues are paid, before being  
130 eligible for any retirement benefits provided under this Code section.

131 (g)(1) Except as provided in paragraphs (2) and (3) of this subsection, any member who  
132 again becomes employed as a peace officer after having been placed on retirement under  
133 this Code section shall immediately notify the secretary-treasurer of such reemployment.  
134 Retirement benefits being paid to such member shall be terminated as of the date of such  
135 reemployment and shall remain terminated for the duration of such reemployment.

136 During such period of reemployment, said member shall pay regular monthly dues into  
137 this fund. Upon meeting the requirements provided by law, such member shall be  
138 entitled to all benefits provided for in Code Sections 47-17-81 and 47-17-82; but such  
139 member shall not be entitled to any increase in retirement benefits by virtue of service  
140 during the period of reemployment unless such reemployment is for a term of three years  
141 or more, in which instance such member may again apply for retirement as if he or she  
142 had not previously been retired; and he or she shall be entitled to such benefits as may be  
143 provided by law at that time, if he or she so chooses.

144 (2) The provisions of paragraph (1) of this subsection shall not apply to a retired member  
145 employed in any capacity for 1,040 hours or less in any calendar year.

146 (3) The provisions of paragraph (1) of this subsection shall not apply to a member  
147 otherwise qualified for a normal service retirement under this chapter with at least 30  
148 years of creditable service and who has attained the age of 55. Any such member may  
149 continue or reenter employment as a peace officer and shall for all purposes be  
150 considered a retired member of this fund; provided, however, that the provisions of this  
151 paragraph shall not apply to any person who first or again becomes a member on or after  
152 July 1, 2009.

153 (h) The amounts provided for as retirement benefits in this Code section shall apply to  
154 those members who have retired prior to July 1, 1990, as well as to those members who  
155 retire on or after that date. The service of each member who retired prior to July 1, 1990,  
156 shall be recomputed; and, if it is determined that the amounts provided for in this Code  
157 section result in an increase in the retirement benefits being paid to such member, such  
158 benefits shall be increased to the proper amount and shall be paid to the member in the  
159 future, beginning July 1, 1990. If it is determined that an increase in retirement benefits  
160 will result for any such retired member, and such retired member shall not have completed  
161 payment of dues for all service credit previously allowed as of the date of such member's  
162 retirement, monthly dues shall be deducted from the member's monthly retirement benefits  
163 until such time as said dues shall have been paid for each month of service for which  
164 retirement credit has been received; provided, however, that no such member shall be  
165 allowed to change the option under which the member originally retired unless the member  
166 shall again become employed as a peace officer as provided in subsection (g) of this Code  
167 section and complies with all the provisions of subsection (g) of this Code section.

168 (i) In the event an active member of the fund dies before retirement and such member has  
169 accumulated at least ten years of membership service, or 15 years for members who  
170 become members on or after July 1, 2010, or would otherwise have been eligible to receive  
171 retirement benefits except for the member's not having terminated the member's official  
172 capacity as a peace officer, benefits shall be extended to the surviving spouse of such

173 member in the form of an annuity for the remaining life of such spouse determined and  
174 paid to such surviving spouse under Option Two of this Code section to the same extent  
175 as if such member had died while receiving retirement benefits under Option Two.

176 (j) Upon the death of any retired member, any unpaid monthly benefits shall be paid to the  
177 named beneficiary, if any, or if there is no named beneficiary, then to the estate of the  
178 retired member."

179 **SECTION 3.**

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