

House Bill 202

By: Representatives Maxwell of the 17th, Meadows of the 5th, Golick of the 34th, and Benton of the 31st

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 define certain terms; to provide for a maximum compensation to be used
3 for computing contributions and benefits; to remove a requirement that an application for
4 certain creditable service be made within a certain period; to provide for the payment of
5 benefits; to provide for rollover of certain funds; to provide for a limit on benefits; to provide
6 for application of service credits; to provide for the holding of pension funds in trust; to
7 provide for a normal retirement age; to provide for vesting; to ratify certain prior changes to
8 public retirement plans; to provide for related changes in public retirement law to comply
9 with federal law and regulations; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
13 amended by revising Code Section 47-1-10, relating to adoption, amendment, or repeal of
14 rules by boards of trustees of state retirement or pension systems, procedure, immediate
15 adoption, and filing of rules with Secretary of State, by adding a new subsection to read as
16 follows:

17 "(f) Each board of trustees shall be authorized to adopt rules and regulations which are
18 appropriate or necessary to maintain the qualified status of its respective public retirement
19 and pension system under Sections 401(a) and 414(d) of the federal Internal Revenue Code
20 and such other applicable sections of the federal Internal Revenue Code."

21 **SECTION 2.**

22 Said title is further amended by revising subsection (b) of Code Section 47-1-13, relating to
23 maximum compensation used in computing employee and employer contributions, as
24 follows:

25 "(b) Any other provision of law to the contrary notwithstanding, the maximum
 26 compensation used in computing employee and employer contributions to or benefits due
 27 from any public retirement or pension system shall be the maximum compensation set forth
 28 in Section 401(a)(17) of the federal Internal Revenue Code, as now or hereafter amended;
 29 provided, however, that pursuant to Section 13212(d)(3)(A) of the federal Omnibus Budget
 30 Reconciliation Act of 1993 and the regulations issued under such section, eligible members
 31 are not subject to the limits of Section 401(a)(17) of the federal Internal Revenue Code, and
 32 the maximum compensation used for such computations for eligible ~~employees~~ members
 33 shall be the maximum amount allowed by the respective retirement or pension system to
 34 be so used on July 1, 1993."

35 SECTION 3.

36 Said title is further amended by adding a new Code section to read as follows:

37 "47-1-13.1.

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

39 (1) 'Annual compensation' means compensation during the determination period. Such
 40 term shall include any cost of living adjustment in effect for a calendar year if the
 41 determination period begins with or within such calendar year.

42 (2) 'Determination period' means the plan year or such other consecutive 12 month
 43 period over which compensation is otherwise determined under the public retirement or
 44 pension system.

45 (b) The annual compensation of a plan member during any plan year beginning on or after
 46 January 1, 2002, which exceeds \$200,000.00, as adjusted for cost-of-living increases in
 47 accordance with Section 401(a)(17)(B) of the federal Internal Revenue Code, shall not be
 48 taken into account in determining benefits or contributions due from the public retirement
 49 or pension system for any plan year. If the determination period consists of fewer than 12
 50 months, the annual compensation limit shall be an amount equal to the otherwise applicable
 51 annual compensation limit multiplied by a fraction, the numerator of which is the number
 52 of months in the short determination period and the denominator of which is 12. If the
 53 compensation for any prior determination period is taken into account in determining a plan
 54 member's contributions or benefits for the current plan year, the compensation for such
 55 prior determination period shall be subject to the applicable annual compensation limit in
 56 effect for the prior period.

57 (c) The annual compensation of a plan member during any plan year beginning on and
 58 after January 1, 1996, and before January 1, 2002, which exceeds \$150,000.00, as indexed
 59 as provided in Section 401(a)(17)(B) of the federal Internal Revenue Code, shall be

60 disregarded for purposes of computing contributions to or benefits due from the public
 61 retirement or pension system."

62 **SECTION 4.**

63 Said title is further amended by revising subsection (a) of Code Section 47-1-62, relating to
 64 procedure for establishment of creditable service, computations, employer contributions, and
 65 system or fund unable to provide creditable service, as follows:

66 "(a) Any qualified returning veteran desiring to establish creditable service for a period of
 67 qualified service shall so notify the board of trustees of the public retirement system or
 68 fund ~~not later than six months from the date he or she resumes employment.~~ The board of
 69 trustees shall calculate the amount of employee or member contribution which the
 70 returning veteran would have paid if he or she had been a member of the system or fund
 71 during the period of qualified service. If such contribution is based on the member's salary,
 72 the returning veteran's salary shall be deemed to be the rate the member would have
 73 received but for the period of qualified service or, if determination of such rate is not
 74 reasonably certain, the member's average rate of compensation during the 12 month period
 75 immediately preceding the period of qualified service or such lesser time as the member
 76 was employed. The returning veteran shall repay the amount so calculated as his or her
 77 employee or member contribution, which payment must be completed not later than three
 78 times the length of qualified service or five years, whichever period is shorter, computed
 79 from the date the returning veteran resumes employment. The board of trustees of any
 80 public retirement system may provide by rule for computing the amount of creditable
 81 service on payment of less than the total amount of employee contributions."

82 **SECTION 5.**

83 Said title is further amended by revising Code Section 47-1-80, relating to distributions to
 84 conform to regulations issued under the Internal Revenue Code, as follows:

85 "47-1-80.

86 Notwithstanding any other provision of this title to the contrary, distributions from any
 87 public retirement or pension system shall conform to ~~the regulations issued under a~~
 88 good-faith interpretation of Section 401(a)(9) of the federal Internal Revenue Code and the
 89 regulations promulgated pursuant to such section as applicable to a governmental plan
 90 within the meaning of Section 414(d) of the federal Internal Revenue Code and shall be
 91 implemented in accordance with the grandfathering provisions of such regulations
 92 applicable to annuity option distributions in effect on April 17, 2001."

SECTION 6.

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Said title is further amended by adding a new Code section to read as follows:

"47-1-80.1.

(a) Notwithstanding any other provision of this title to the contrary, any public retirement or pension system shall be subject to the following provisions:

(1)(A) Benefits shall begin by the required beginning date, which is the later of April 1 of the calendar year following the calendar year in which the plan member reaches 70 1/2 years of age or April 1 of the calendar year in which the plan member terminates employment. If a plan member fails to apply for retirement benefits by the required beginning date, the applicable public retirement or pension system shall begin distribution of the benefit as required by Section 401(a)(9) of the federal Internal Revenue Code.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, for any plan member who was entitled to receive a benefit under the public retirement or pension as of December 31, 1996, and attained the age of 70 1/2 on or before December 31, 1998, the required beginning date shall be deemed to be April 1 following the calendar year in which the member attained the age of 70 1/2, regardless of whether the member was then employed by the employer;

(2) A plan member's entire interest shall be distributed over the plan member's life or the lives of the plan member and a designated beneficiary or over a period not extending beyond the life expectancy of the plan member or the life expectancy of the plan member and his or her designated beneficiary;

(3) The life expectancy of a plan member, the plan member's spouse, or the plan member's designated beneficiary shall not be recalculated after the initial determination for purposes of determining benefits;

(4) If a plan member dies after the required distribution of benefits has begun, the remaining portion of the plan member's interest shall be distributed at least as rapidly as under the method of distribution before the plan member's death and no longer than the remaining period over which the distribution commenced; and

(5) If a plan member dies before the required distribution of the plan member's benefits has begun, the plan member's entire interest shall be either distributed in accordance with federal regulations over the life or the life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year immediately following the calendar year of the plan member's death or distributed by December 31 of the calendar year containing the fifth anniversary of the plan member's death.

128 (b) The amount of an annuity paid to a plan member's designated beneficiary shall not
 129 exceed the maximum determined under the incidental death benefit requirements of the
 130 federal Internal Revenue Code.

131 (c) The death and disability benefits provided by the plan shall be limited by the incidental
 132 benefit rule set forth in Section 401(a)(9)(G) of the federal Internal Revenue Code and
 133 Federal Treasury Regulation Section 1.401-1(b)(1)(i) or any successor to such regulation."

134 **SECTION 7.**

135 Said title is further amended by revising Code Section 47-1-81, relating to election to have
 136 a portion of an eligible rollover distribution paid to an eligible retirement plan under federal
 137 law, as follows:

138 "47-1-81.

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

140 (1) 'Direct rollover' means a payment by the public retirement or pension system subject
 141 to this title to the eligible retirement plan specified by the distributee or to the surviving
 142 spouse of the distributee.

143 (2) 'Distributee' means:

144 (A) An employee;

145 (B) A former employee;

146 (C) The employee or former employee's surviving spouse; or

147 (D) A nonspouse beneficiary who is a designated beneficiary as defined in Section
 148 401(a)(9)(E) of the federal Internal Revenue Code.

149 (3) 'Eligible retirement plan' means any of the following that accepts the distributee's
 150 eligible rollover distribution:

151 (A) An individual retirement account described in Section 408(a) of the federal Internal
 152 Revenue Code;

153 (B) An individual retirement annuity described in Section 408(b) of the federal Internal
 154 Revenue Code;

155 (C) An annuity plan described in Section 403(a) of the federal Internal Revenue Code;

156 (D) A qualified trust described in Section 401(a) of the federal Internal Revenue Code;

157 (E) An annuity contract described in Section 403(b) of the federal Internal Revenue
 158 Code.

159 (F) An eligible deferred compensation plan under Section 457(b) of the federal Internal
 160 Revenue Code that is maintained by a state, political subdivision or agency or
 161 instrumentality of a state, or a political subdivision of a state and which agrees to
 162 separately account for amounts transferred into that plan from the public retirement or
 163 pension system under this title; and

164 (G) A Roth IRA described in Section 408A of the federal Internal Revenue Code.

165 (4) 'Eligible rollover distribution' means any distribution of all or any portion of the
166 balance to the credit of the distributee; provided, however, such term shall not include:

167 (A) Any distribution that is one of a series of substantially equal periodic payments
168 made not less frequently than annually for the life or life expectancy of the distributee
169 or the joint lives or joint life expectancies of the distributee and the distributee's
170 designated beneficiary, or for a specified period of ten years or more;

171 (B) Any distribution to the extent such distribution is required under Section 401(a)(9)
172 of the federal Internal Revenue Code;

173 (C) The portion of any distribution that is not includable in gross income; or

174 (D) Any other distribution that is reasonably expected to total less than \$200.00 during
175 the year.

176 Such term shall include a distribution to a surviving spouse made on or after January 1,
177 2002.

178 (b) Notwithstanding any other provisions of this title to the contrary that would otherwise
179 limit a person's election under this Code section, a member of a retirement or pension
180 system subject to this title may elect, at the time and in the manner prescribed by the board
181 of trustees of such system, to have any portion of an eligible rollover distribution, as such
182 term is defined in Section 402(c) of the federal Internal Revenue Code, paid directly to an
183 eligible retirement plan, as such term is defined in Section 402(c) of the federal Internal
184 Revenue Code, specified by the person in a direct rollover.

185 (c) A portion of a distribution made on or after January 1, 2002, shall not fail to be an
186 eligible rollover distribution merely because the portion consists of after-tax employee
187 contributions that are not includable in gross income; provided, however, that such portion
188 may be transferred only to:

189 (1) An individual retirement account or annuity described in Section 408(a) or (b) of the
190 federal Internal Revenue Code;

191 (2) A qualified defined contribution plan described in Sections 401(a) or 403(a) of the
192 federal Internal Revenue Code;

193 (3) A qualified defined benefit plan described in Section 401(a) of the federal Internal
194 Revenue Code; or

195 (4) An annuity contract described in Section 403(b) of the federal Internal Revenue Code
196 which agrees to account separately for amounts so transferred, and earnings thereon,
197 including accounting separately for the portion of such distribution that is includable in
198 gross income and the portion that is not so includable.

199 (d) Notwithstanding any other provision of this title to the contrary, a nonspouse
200 designated beneficiary may roll over the distribution only to an individual retirement

201 account or individual retirement annuity established for the purpose of receiving the
 202 distribution, and the account or annuity shall be treated as an inherited individual
 203 retirement account or annuity."

204 **SECTION 8.**

205 Said title is further amended by revising Code Section 47-1-82, relating to maximum benefits
 206 limited to that allowed by federal law, as follows:

207 "47-1-82.

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

209 (1) 'Annual benefit' means a retirement benefit under the public retirement or pension
 210 system which is payable annually in the form of a straight life annuity.

211 (2) 'Applicable mortality table' means the table prescribed by the secretary of the treasury
 212 of the United States in Revenue Ruling 95-6 or any successor thereto which prescribes
 213 the mortality table to be applied pursuant to Section 415(b)(2)(E)(v) of the federal
 214 Internal Revenue Code. To the extent that a forfeiture does not occur upon death, the
 215 mortality decrement may be ignored prior to age 62 and shall be ignored after social
 216 security retirement age, as prescribed by federal Internal Revenue Service Notice 83-10,
 217 Q&A G-3 and G-4, or any successor thereto.

218 (3) 'Compensation' means, for purposes of applying the limitations of Section 415 of the
 219 federal Internal Revenue Code and for no other purpose, a plan member's wages as
 220 defined in Section 3401(a) of the federal Internal Revenue Code (wages subject to
 221 income tax withholding at the source, but without regard to exceptions contained in
 222 Section 3401(a) of the federal Internal Revenue Code for wages based on the nature or
 223 location of the employment or the services performed). The term shall also include the
 224 following:

225 (A) For limitation years beginning on or after December 31, 1997, for purposes of
 226 applying the limitations of Section 415 of the federal Internal Revenue Code, amounts
 227 that would otherwise be included in compensation but for an election under Sections
 228 125(a), 402(e)(3), 402(h)(1)(B), 402(k), and 457(b) of the federal Internal Revenue
 229 Code;

230 (B) For limitation years beginning after December 31, 2000, any elective amounts that
 231 are not includable in the plan member's gross income by reason of Section 132(f) of the
 232 federal Internal Revenue Code, relating to qualified transportation plan; and

233 (C) For limitation years beginning on and after January 1, 2007, compensation paid by
 234 the later of 2 1/2 months after the plan member's severance from employment or the end
 235 of the limitation year that includes the date of the plan member's severance from
 236 employment if:

237 (i) The payment is regular compensation for services during the plan member's
 238 regular working hours or compensation for services outside the plan member's regular
 239 working hours, including without limitation overtime or shift differential,
 240 commissions, bonuses, or other similar payments, and, absent a severance from
 241 employment, the payment would have been paid to the plan member while he or she
 242 continued in employment with the employer; or

243 (ii) The payment is for unused accrued bona fide sick leave, vacation leave, or the
 244 leave that the member would have been able to use if employment had continued.

245 'Compensation' also includes back pay, within the meaning of Treasury Regulation
 246 Section 1.415 (c)-2(g)(8), for the limitation year to which the back pay relates to the
 247 extent the back pay represents wages and compensation that would otherwise be included
 248 in this definition.

249 (4) 'Dollar limitation' means the maximum permissible amount as such term is defined
 250 in paragraph (6) of this subsection.

251 (5) 'Limitation year' means the plan year.

252 (6) 'Maximum permissible amount' means:

253 (A) For limitation years beginning prior to January 1, 1995, 100 percent of the plan
 254 member's average compensation for the period of three consecutive years during which
 255 the plan member has the highest aggregate compensation from the employer;

256 (B) For limitation years beginning on and after January 1, 1995, but before January 1,
 257 2001, \$90,000; and

258 (C) For limitation years beginning on and after January 1, 2002, \$160,000.00, as
 259 adjusted by the secretary of the treasury of the United States for each calendar year,
 260 with the new limitation to apply to limitation years ending within the calendar year of
 261 the date of the adjustment.

262 (7) 'Nonannuity benefit form' means a benefit, whether a normal form or an optional
 263 form, which is not payable in a straight life annuity for the life of the plan member.

264 (b) Notwithstanding any other provisions of this title to the contrary, the maximum benefit
 265 payable to any active or retired member or beneficiary of a retirement or pension system
 266 subject to this title shall be limited to such extent as may be necessary to conform to the
 267 requirements of Section 415 of the federal Internal Revenue Code for a qualified retirement
 268 plan.

269 (c) If a plan member's benefit is payable in a nonannuity benefit form, whether as the
 270 normal form of benefit or as an optional form which the plan member or his or her
 271 designated beneficiary elects, the nonannuity benefit form shall be adjusted to an annual
 272 benefit as described in subsections (d) and (e) of this Code section. No actuarial
 273 adjustment to the nonannuity benefit form shall be required for:

- 274 (1) The value of a qualified joint and survivor annuity;
275 (2) The value of benefits that are not directly related to retirement benefits, such as a
276 disability benefit, preretirement death benefits, and postretirement medical benefits; or
277 (3) The value of postretirement cost-of-living increases provided that the amount payable
278 to the plan member under the nonannuity benefit form in any limitation year shall not be
279 greater than the Section 415(b) of the federal Internal Revenue Code limit applicable at
280 the annuity starting date as increased in subsequent years pursuant to Section 415(d) of
281 the federal Internal Revenue Code and Section 1.415(d)-1 of the Treasury Regulations.
282 The determination of the annual benefit shall disregard benefits attributable to employee
283 contributions or rollover contributions or the assets transferred from a qualified plan that
284 was not maintained by an employer.
- 285 (d) If the annual benefit commences when the plan member has fewer than ten years of
286 participation in the applicable public retirement or pension system or any predecessor
287 public retirement or pension system, the dollar limitation shall be reduced by one-tenth for
288 each year less than ten, but in no event shall be less than one-tenth of the unreduced dollar
289 limitation.
- 290 (e)(1) If the payment of benefits under the public retirement or pension system
291 commences before age 62 or after age 65, the dollar limitation shall be adjusted as the
292 actuarial equivalent of the dollar limitation payable at age 62 or age 65, as follows:
- 293 (A) If the age at which the benefit is payable is less than 62, the dollar limitation shall
294 be reduced to reflect the lesser of the following calculations:
- 295 (i) Reduce the dollar limitation using the interest rate and mortality table or tabular
296 factors, as applicable, which are set forth in the public retirement or pension system
297 for the reduction of benefits for early retirement benefits; or
- 298 (ii) Reduce the dollar limitation using 5 percent interest and the applicable mortality
299 table;
- 300 (B) For limitation years beginning before January 1, 2002, nothing in this paragraph
301 shall reduce the applicable dollar limitation below \$75,000.00 if the annual benefit
302 begins at or after age 55; and
- 303 (C) For limitation years beginning before January 1, 2002, if the annual benefit begins
304 before age 55, nothing in this paragraph shall reduce the dollar limitation below the
305 actuarial equivalent of the \$75,000.00 limitation for age 55.
- 306 (2) If a plan member is a qualified member as such term is defined under Section
307 415(b)(2)(G) of the federal Internal Revenue Code, he or she may retire before age 62
308 without a reduction in the dollar limitation if at least 15 years of service is required to
309 receive a full benefit under the public retirement or pension system.

310 (3) If the age at which the benefit is payable is greater than age 65, the age-adjusted
311 dollar limitation shall be determined by increasing the dollar limitation on an actuarially
312 equivalent basis. The increased age-adjusted dollar limitation shall be the amount
313 computed using 5 percent interest and the applicable mortality table."

314 **SECTION 9.**

315 Said title is further amended by adding three new Code sections to read as follows:

316 "47-1-83.

317 (a) Notwithstanding anything in this Code section to the contrary, the annual benefit
318 payable to a plan member shall not be deemed to exceed the limits of Section 415 of the
319 federal Internal Revenue Code if the annual benefit payable to the plan member under a
320 public retirement or pension system does not exceed \$10,000.00 for the plan year or any
321 prior plan year and the employer has not at any time maintained a defined contribution plan
322 in which the plan member participated.

323 (b) Notwithstanding anything contained in this Code section to the contrary, the
324 adjustment prescribed by this Code section for benefits that commence before age 62 and
325 the reduction described in this Code section for fewer than ten years of participation shall
326 not apply to any benefit paid from a public retirement or pension system on account of a
327 plan member's becoming disabled by reason of personal injuries or sickness or to amounts
328 received by a designated beneficiary as a result of the plan member's death. This
329 subsection shall be interpreted in accordance with Section 415(b)(2)(I) of the federal
330 Internal Revenue Code and any regulations promulgated thereunder.

331 (c) For purposes of applying the limits under Section 415(b) of the federal Internal
332 Revenue Code, a plan member's maximum permissible amount shall be applied taking into
333 consideration cost-of-living increases as required by Section 415(b) of the federal Internal
334 Revenue Code and applicable Treasury Regulations.

335 (d) In no event shall a plan member's annual benefit payable in any limitation year from
336 a retirement or pension system be greater than the limit applicable at the annuity starting
337 date, as increased in subsequent years pursuant to Section 415(d) of the federal Internal
338 Revenue Code and regulations promulgated thereunder. If the form of benefit without
339 regard to the automatic benefit increases feature is not a straight life annuity, then the
340 preceding sentence is applied by reducing the Section 415(b) of the federal Internal
341 Revenue Code limit applicable at the annuity starting date to an actuarially equivalent
342 amount, to be determined by using the assumption specified in Treasury Regulation Section
343 1.415(b)-1(c)(2)(ii) that takes into account the death benefit under the form of benefit.

344 47-1-84.

345 (a) Notwithstanding any other provision of this title to the contrary, the board of trustees
 346 of a retirement or pension system may modify a request by a plan member to make a
 347 contribution to the public retirement or pension system if the amount of the contribution
 348 would exceed the limits provided under Section 415 of the federal Internal Revenue Code
 349 by using the following methods:

350 (1) If the law requires a lump sum payment for the purchase of service credit, the board
 351 of trustees may establish a periodic payment plan for the plan member to avoid a
 352 contribution in excess of the limits under Section 415(c) or 415(n) of the federal Internal
 353 Revenue Code; and

354 (2) If the payment plan pursuant to paragraph (1) of this subsection will not avoid a
 355 contribution in excess of the limits, the board of trustees may refuse the plan member's
 356 contribution.

357 (b) For any plan member who first became a plan member in the public retirement or
 358 pension system before January 1, 1998, the limitation of Section 415(c)(1) of the federal
 359 Internal Revenue Code shall not be applied to reduce the amount of permissive service
 360 credit which may be purchased to an amount less than the amount which was allowed to
 361 be purchased under state law on August 5, 1997.

362 47-1-85.

363 (a) The assets of a public retirement or pension system shall be held in trust, and it shall
 364 not be possible at the time prior to satisfaction of all liabilities to plan members and their
 365 beneficiaries under the public retirement or pension system for any part of said assets to
 366 be used for, or diverted to, purposes other than for the exclusive benefit of plan members
 367 and their designated beneficiaries and for paying reasonable expenses of the public
 368 retirement or pension system and trust fund.

369 (b) The board of trustees of a public retirement or pension system shall not engage in a
 370 transaction prohibited by Section 503(b) of the federal Internal Revenue Code."

371 **SECTION 10.**

372 Said title is further amended by revising paragraph (1) of Code Section 47-2-1, relating to
 373 definitions relative to the Employees' Retirement System of Georgia, as follows:

374 "(1) 'Accumulated contributions' means the sum of all the amounts deducted from the
 375 earnable compensation of a member and or paid by the member to establish or reestablish
 376 credit for service, which amounts are credited to his the member's individual account in
 377 the annuity savings fund, together with regular interest thereon. Beginning July 1, 1980,
 378 'accumulated contributions' also includes the amount of employee contributions paid by

379 the employer on behalf of the employee and credited to the employee's individual account
 380 in the annuity savings fund, together with regular interest thereon, excluding employee
 381 contributions paid by the employer or the employee for group term life insurance."

382 **SECTION 11.**

383 Said title is further amended by revising paragraph (15) of Code Section 47-2-1, relating to
 384 definitions relative to the Employees' Retirement System of Georgia, as follows:

385 "(15) 'Earnable compensation' means the full rate of regular compensation payable to a
 386 member employee for his or her full normal working time, excluding any supplements
 387 from local funds. In cases where compensation includes maintenance, the board of
 388 trustees shall fix the value of that part of the compensation not paid in cash. Such term
 389 shall include contributions made to a qualified transportation plan, within the meaning
 390 of Section 132(f) of the federal Internal Revenue Code, and before tax or salary deferral
 391 contributions made under Sections 125, 401(k), 402(g)(3), 457, or 414(h) of the federal
 392 Internal Revenue Code to this retirement system or to any other retirement plan
 393 maintained by an employer."

394 **SECTION 12.**

395 Said title is further amended by revising paragraph (17) of Code Section 47-2-1, relating to
 396 definitions relative to the Employees' Retirement System of Georgia, as follows:

397 "(17) 'Employer' means:

398 (A) The state or any department, bureau, institution, board, or commission of the state
 399 or any county, city-county, or city board, the employees of which are under a state
 400 merit system of personnel administration, including a merit system for employees of
 401 the Department of Public Safety, and all state departments under a tenure system as
 402 established by law, provided that such county, city-county, or city board may notify the
 403 board of trustees that it will not participate in the benefits of the retirement system, such
 404 notice to be given in writing on or before the commencement date or before persons are
 405 employed by it. Any employee of a county, city-county, or city board having an
 406 existing local retirement system may elect to continue to participate in such existing
 407 local system but shall not participate in two systems, and his or her election shall be
 408 final on the commencement date under this chapter. Any county, city-county, or city
 409 employee who elects to become a member of this retirement system and who was a
 410 member of an existing local retirement system shall transfer to the board of trustees any
 411 equity he or she has in the local system.

412 (B) Any other provisions of law to the contrary notwithstanding, the adjutant general
 413 is authorized, though not directed, to establish a merit system and to perform all of the

414 duties and obligations of an 'employer' for all civilians employed in or with the Army
 415 National Guard of Georgia and the Air National Guard of Georgia, even though such
 416 employees may be paid with federal funds. The adjutant general is further authorized
 417 to make and enter into such agreements and take such actions as are necessary to
 418 provide for all contributions and payments specified in this chapter, from funds made
 419 available by the federal government, and otherwise to comply with this chapter so as
 420 to make this chapter applicable to such civilian employees.

421 (C) 'Employer' shall include any new state agency described under Code Section
 422 47-2-70.1 and any other entity authorized by law to report any of its employees as
 423 members of this system."

424 **SECTION 13.**

425 Said title is further amended by revising Code Section 47-2-1, relating to definitions relative
 426 to the Employees' Retirement System of Georgia, by adding two new paragraphs to read as
 427 follows:

428 "(16.6) 'Employee' shall not include an individual classified by an employer as an
 429 independent contractor or a leased employee within the meaning of Section 414(n) of the
 430 federal Internal Revenue Code, even if such individual is later reclassified by the Internal
 431 Revenue Service as a common law employee."

432 "(28.1) 'Plan year' means the 12 month period beginning on July 1 of each year."

433 **SECTION 14.**

434 Said title is further amended by adding a new Code section to read as follows:

435 "47-2-33.

436 For purposes of complying with federal Internal Revenue Service rules and regulations, the
 437 plan year for this retirement system shall be the 12 month period beginning on July 1 of
 438 each year."

439 **SECTION 15.**

440 Said title is further amended by revising Code Section 47-2-54, relating to employee
 441 contributions under the Employees' Retirement System of Georgia, by adding a new
 442 subsection to read as follows:

443 "(j) The employee contributions described in this Code section that are credited to the
 444 member's annuity savings account, although designated as employee contributions, are
 445 being paid by the employer as 'pick-up' contributions in accordance with Section 414(h)
 446 of the federal Internal Revenue Code. As such, these contributions are mandatory and no
 447 member is entitled under any circumstances to receive such contributions in cash in lieu

448 of having them contributed to the retirement system. Such contributions shall be 100
 449 percent vested for all purposes under the retirement system."

450 **SECTION 16.**

451 Said title is further amended by revising subsection (a) of Code Section 47-2-70.1, relating
 452 to employees of new state agencies, as follows:

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

454 (1) 'Employee' means full-time officers and employees of a new state agency; provided,
 455 however, that such term shall not mean an individual classified by an employer as an
 456 independent contractor or a leased employee within the meaning of Section 414(n) of the
 457 Internal Revenue Code, even if such individual is later reclassified by the Internal
 458 Revenue Service as a common law employee.

459 (2) 'Employer' means a new state agency paying the compensation of an employee.

460 (3) 'New state agency' means any department, division, board, bureau, commission,
 461 institution, or other agency of the state or any state public authority which first becomes
 462 established or active on or after July 1, 1992.

463 (4) 'State public authority' means any public authority or public corporation created by
 464 general law to carry out state purposes or functions, and the term does not include public
 465 authorities created by general law to carry out purposes or functions within or on behalf
 466 of counties, municipalities, or other political subdivisions and which are activated by
 467 action of individual political subdivisions."

468 **SECTION 17.**

469 Said title is further amended by revising Code Section 47-2-92, relating to reestablishment
 470 of service credit after withdrawal of accumulated contributions from this retirement system
 471 or the Teachers Retirement System of Georgia and payments required to obtain credits, as
 472 follows:

473 "47-2-92.

474 Any present member who has withdrawn accumulated contributions from either the
 475 Employees' Retirement System of Georgia or the Teachers Retirement System of Georgia,
 476 or both, may, after two years of service as a contributing member, reestablish the creditable
 477 service for which the member would have been eligible if the accumulated contributions
 478 had not been withdrawn, provided that the member repays into the retirement system an
 479 amount equal to the amount withdrawn, together with regular interest at the rate of 4 1/4
 480 percent per annum from the date of withdrawal to the date of repayment, which
 481 contributions and interest shall be placed in the ~~pension accumulation fund~~ participant's
 482 individual account in the annuity savings fund. Upon receipt of notice from this retirement

483 system to the Teachers Retirement System of Georgia that a member has repaid to this
 484 retirement system contributions previously withdrawn from the Teachers Retirement
 485 System of Georgia, the Teachers Retirement System of Georgia shall pay an employer
 486 contribution plus regular interest into the Employees' Retirement System of Georgia. The
 487 amount of the employer contribution shall be 6 percent of the reported compensation of the
 488 member during membership in the Teachers Retirement System of Georgia."

489 SECTION 18.

490 Said title is further amended by revising Code Section 47-2-110, relating to retirement ages,
 491 application and eligibility for a retirement allowance, suspension of retirement allowance
 492 upon reemployment, and health benefits, as follows:

493 "47-2-110.

494 (a)(1) Upon written application to the board of trustees, any member in service who has
 495 reached 60 years of age or who has 30 years of creditable service may retire on a service
 496 retirement allowance, provided that he or she has at least five years of creditable service;
 497 provided, further, that if he or she became a member after July 1, 1968, he or she has at
 498 least ten years of creditable service. The effective date of retirement shall be the first of
 499 the month in which the application is received by the board of trustees, provided that no
 500 retirement application will, in any case, be effective earlier than the first of the month
 501 following the final month of the applicant's employment. Applications for retirement will
 502 not be accepted more than 90 days in advance of the effective date of retirement.
 503 Separation from service pending approval of the retirement application shall not affect
 504 eligibility for a retirement allowance. The provisions of this subsection regarding the
 505 effective date of retirement shall apply to all persons making application for retirement
 506 on or after March 15, 1979, and to all persons who have made application prior to March
 507 15, 1979, but to whom payments from the retirement system have not commenced as of
 508 that date. Each employer shall certify to the board of trustees the date on which the
 509 employee's employment is or will be severed and that no agreement exists to allow the
 510 employee to return to service, including service as or for an independent contractor. Any
 511 return to employment or rendering of any paid service, including service as or for an
 512 independent contractor, for any employer within two consecutive calendar months of the
 513 effective date of retirement shall render the severance invalid, nullifying the application
 514 for retirement.

515 (2) Normal retirement age, for purposes of the retirement system, shall be the date the
 516 employee has reached 60 years of age, provided that he or she has at least ten years of
 517 creditable service or the age of an employee on the date he or she attains 30 years of
 518 creditable service; provided, however, that the provisions of this paragraph are subject

519 to change by future legislation in order to comply with federal regulations. For those
 520 members who are in service with the Uniform Division of the Department of Public
 521 Safety as an officer, noncommissioned officer, or trooper, officers and agents of the
 522 Georgia Bureau of Investigation, conservation rangers of the Department of Natural
 523 Resources, or in the Department of Revenue as an alcohol and tobacco officer or agent,
 524 normal retirement age shall be the date the employee has reached 55 years of age,
 525 provided that he or she has at least ten years of creditable service. For purposes of
 526 Section 402(l) of the federal Internal Revenue Code regarding distributions from
 527 governmental plans for health and long-term care insurance for public safety officers,
 528 normal retirement age shall be the earliest date when the employee has satisfied the
 529 requirements for a retirement allowance under the retirement system. Except as provided
 530 under Article 2 of Chapter 1 of this title, a member's right to his or her retirement
 531 allowance is nonforfeitable upon attainment of normal retirement age.

532 (b)(1) Effective July 1, 1983, no member of the retirement system may be required to
 533 retire because of age except the following members:

- 534 (A) Those employed as prison guards by the Department of Corrections;
- 535 (B) Those employed by the Uniform Division of the Department of Public Safety as
 536 officers and troopers;
- 537 (C) Those employed by the Department of Natural Resources as conservation rangers;
- 538 (D) Those employed by the Department of Revenue as alcohol and tobacco officers or
 539 agents;
- 540 (E) Those employed as officers or agents of the Georgia Bureau of Investigation;
- 541 (F) Those employed by the Department of Transportation as enforcement officers prior
 542 to July 1, 2001;
- 543 (G) Those employed by the Department of Motor Vehicle Safety as enforcement
 544 officers on or after July 1, 2001; and
- 545 (H) Those employed by the State Board of Pardons and Paroles as parole officers as
 546 well as other employees of said board who possess the power of arrest.

547 (2) Those members specified by paragraph (1) of this subsection who may be required
 548 to retire because of age shall be subject to the laws specifying retirement ages for the
 549 various classifications of such members or subject to the rules, regulations, or policies
 550 specifying retirement ages of the various state departments or agencies employing such
 551 members, provided such rules, regulations, or policies are in compliance with other laws
 552 of this state. Any state department or agency specified in paragraph (1) of this subsection
 553 shall be authorized to employ or continue the employment of any member, regardless of
 554 age, with professional, scientific, or technical skills who is so certified to the board of
 555 trustees by the state department or agency.

556 (c)(1) As used in this subsection, in addition to the definition provided in Code Section
557 47-2-1, the term 'employer' shall also include the retired member's last employer which
558 reported to the retirement system prior to the member's effective date of retirement. Such
559 term shall also include the Board of Regents of the University System of Georgia.

560 (2) Except as provided in this subsection, if a member accepts paid employment with or
561 renders services for pay to any employer, including, without limitation, service directly
562 or indirectly as or for an independent contractor, after his or her retirement, payment of
563 his or her retirement allowance shall be suspended and no contributions to the retirement
564 system shall be made on account of such service either by that member or his or her
565 employer, provided that, upon termination of such service, all rights shall vest in that
566 member as if he or she had continued his or her option to retire.

567 ~~(2)(3)~~ (3) The retirement allowance of a retired member who accepts employment with or
568 renders services to any employer after his or her retirement shall not be suspended if the
569 employee has attained normal retirement age or has not been employed by or rendered
570 service for any employer for at least two consecutive calendar months and performs no
571 more than 1,040 hours of paid employment or paid service, including, without limitation,
572 service as or for an independent contractor, for the employer in any calendar year;
573 ~~provided, however, that no such employee so employed shall be eligible for employee~~
574 ~~health benefits other than those available to the member as a part of his or her retirement~~
575 ~~benefits or for any annual leave, any sick leave, or any other employee benefit available~~
576 ~~to a state employee in the classified service of the State Merit System of Personnel~~
577 ~~Administration established by Chapter 20 of Title 45.~~

578 ~~(3) The retirement benefits of a retired member who retired on a normal service~~
579 ~~retirement with at least ten years of actual service as an officer or trooper of the Uniform~~
580 ~~Division of the Department of Public Safety shall not be suspended if he or she accepts~~
581 ~~full-time or part-time employment with the Department of Public Safety or the~~
582 ~~Department of Motor Vehicle Safety as a radio operator or a driver's license examiner;~~
583 ~~provided, however, that this paragraph shall cease to apply on or after July 1, 2007. No~~
584 ~~such employee so employed shall be eligible for employee health benefits other than~~
585 ~~those available to the member as a part of his or her retirement benefits or for any annual~~
586 ~~leave, any sick leave, or any other employee benefit available to a state employee in the~~
587 ~~classified service of the State Merit System of Personnel Administration established by~~
588 ~~Chapter 20 of Title 45. No employer or employee contributions to this retirement system~~
589 ~~shall be paid for or on behalf of any such member. The salary paid to any such person~~
590 ~~shall be commensurate with the position for which he or she is employed with credit for~~
591 ~~no more than five years of prior experience.~~

592 (4) Any employer that employs a retired plan member shall within 30 days of the
 593 employee's accepting employment notify the board of trustees in writing stating the name
 594 of the plan member and the number of hours the employee is expected to work annually
 595 and shall provide such other information as the board may request. If the retired plan
 596 member performs more than 1,040 hours in any calendar year, the employer shall so
 597 notify the board of trustees as soon as such information is available. Any employer that
 598 fails to notify the board of trustees as required by this subsection shall reimburse the
 599 retirement system for any benefits wrongfully paid. It shall be the duty of the retired plan
 600 member seeking employment by the employer to notify the employer of his or her
 601 retirement status prior to accepting such position. If a retired plan member fails to so
 602 notify the employer and the employer becomes liable to the retirement system, the plan
 603 member shall hold the employer harmless for all such liability.

604 (d) The board of trustees is authorized to provide by rule or regulation for the payment of
 605 benefits to members or beneficiaries of the retirement system at a time and under
 606 circumstances not provided for in this chapter to the extent that such payment is required
 607 to maintain the retirement system as a 'qualified retirement plan' for the purposes of federal
 608 income tax laws."

609 **SECTION 19.**

610 Said title is further amended by revising subsection (d) of Code Section 47-2-120, relating
 611 to retirement allowances, as follows:

612 "(d) Anything in this chapter to the contrary notwithstanding, any member with whose
 613 current membership began prior to July 1, 1982, and who has at least 34 years of service
 614 shall be eligible to retire forthwith and upon retirement shall be paid not less than the
 615 service retirement allowance which would have been payable upon service retirement at
 616 the age of 65 had ~~he~~ the member continued in service without further change in
 617 compensation."

618 **SECTION 20.**

619 Said title is further amended by revising Code Section 47-2-122, relating to vesting of rights
 620 to a retirement allowance despite early retirement and retirement allowance payable to such
 621 persons, as follows:

622 "47-2-122.

623 Except as provided in Article 2 of Chapter 1 of this title, a member's accumulated
 624 contributions shall be 100 percent vested and nonforfeitable at all times. The right to a
 625 service retirement allowance under this chapter shall vest in any member who withdraws
 626 from service with at least ten years of membership service subsequent to January 1, 1954,

627 although ~~he~~ the member has not yet attained 60 years of age, provided that ~~he~~ the member
 628 has not withdrawn ~~his~~ the member's contributions. Such member shall become entitled to
 629 a service retirement allowance (1) upon filing an application as provided in Code Section
 630 47-2-110 and (2) upon attaining the age of 60 or, at ~~his~~ the member's option, at any time
 631 subsequent thereto after filing such application. The retirement allowance in the case of
 632 any such member shall be the monthly amount ~~he~~ the member would have received had ~~he~~
 633 the member retired on the last day ~~he~~ the member contributed to the retirement system and
 634 at that time had been the same age as when ~~he~~ the member actually retired. If a member
 635 with vested rights dies before reaching age 60, ~~his~~ the member's accumulated contributions
 636 shall be paid to ~~his~~ the member's named living beneficiary, otherwise to ~~his~~ the member's
 637 estate."

638 **SECTION 21.**

639 Said title is further amended by revising paragraph (1) of Code Section 47-4-2, relating to
 640 definitions relative to the Public School Employees Retirement System, as follows:

641 "(1) 'Accumulated contributions' means ~~an employee's contributions~~ the sum of all of the
 642 amounts deducted from the earnable compensation of a member and paid by the member
 643 to establish or reestablish credit for service, which amounts are credited to the member's
 644 individual account in this retirement system, together with regular interest thereon."

645 **SECTION 22.**

646 Said title is further amended by adding a new Code section to read as follows:

647 "47-4-30.

648 For purposes of complying with federal Internal Revenue Service rules and regulations, the
 649 plan year for this retirement system shall be the 12 month period beginning on July 1 of
 650 each year."

651 **SECTION 23.**

652 Said title is further amended by revising subsection (e) of Code Section 47-4-100, relating
 653 to normal, early, and delayed retirement and vesting of a right to a retirement benefit under
 654 the Public School Employees Retirement System, as follows:

655 "(e) The right to a retirement benefit under this chapter shall vest in a member who has ten
 656 or more years of creditable service if ~~he~~ the member has not withdrawn ~~his~~ the member's
 657 contributions. Except as otherwise provided in Article 2 of Chapter 1 of this title, a
 658 member's accumulated contributions shall be 100 percent vested and nonforfeitable at all
 659 times. A member shall be 100 percent vested in all benefits under the plan upon attainment
 660 of normal retirement age. Upon attaining ~~his~~ the member's normal retirement age or ~~his~~

661 the member's early retirement age, he the member shall begin receiving the appropriate
 662 retirement benefit provided by Code Section 47-4-101."

663 **SECTION 24.**

664 Said title is further amended by adding a new Code section to read as follows:

665 "47-4-106.

666 (a) Except as provided in subsection (b) of this Code section, if any retired member who
 667 has not yet reached normal retirement age returns to service as a public school employee
 668 in any position which normally requires membership in this retirement system, such
 669 member's retirement benefit shall cease and the retired member shall reestablish active
 670 membership in this retirement system. The member shall have the same creditable service
 671 which the member possessed at the time of retirement and shall accumulate additional
 672 creditable service so long as such active membership continues. Upon cessation of such
 673 service, the retired member, after proper notification to the board, shall receive a retirement
 674 benefit based on the member's total accrued service.

675 (b) Notwithstanding any other provisions in this chapter to the contrary, the retirement
 676 benefit of a retired member who has reached normal retirement age and who returns to the
 677 service of the public schools as a public school employee in any position which normally
 678 requires membership in this retirement system, including, without limitation, service
 679 directly or indirectly as or for an independent contractor, shall cease and the retired
 680 member shall not be eligible for active membership in this retirement system; provided,
 681 however, that the retirement benefit shall not cease provided that such member performs
 682 no more than 1,040 hours of such service in any calendar year."

683 **SECTION 25.**

684 Said title is further amended by revising paragraph (1) of Code Section 47-6-1, relating to
 685 definitions relative to the Georgia Legislative Retirement System, as follows:

686 "(1) 'Accumulated contributions' means the sum of all amounts deducted from the
 687 compensation of a member and or paid by the member to establish or reestablish credit
 688 for service, which amounts are credited to his or her individual account in the system,
 689 together with regular interest thereon. Beginning on January 12, 1981, this term shall
 690 include the amount of employee contributions paid by the employer on behalf of
 691 members, together with regular interest thereon, excluding employee contributions paid
 692 by the employer for group term life insurance coverage."

693 **SECTION 26.**

694 Said title is further amended by adding a new Code section to read as follows:

695 "47-6-25.

696 For purposes of complying with federal Internal Revenue Service rules and regulations, the
 697 plan year for this retirement system shall be the 12 month period beginning on July 1 of
 698 each year."

699 **SECTION 27.**

700 Said title is further amended by revising subsection (c) of Code Section 47-6-80, relating to
 701 eligibility and application for a retirement allowance, early retirement, amount of retirement
 702 allowance, and increases in retirement allowance, as follows:

703 "(c) Normal retirement age for a member with at least eight years of membership service
 704 shall be the date the member has reached 62 years of age. Normal retirement age for a
 705 member with less than eight years of membership service but with at least eight years of
 706 creditable service shall be the date the member has reached 65 years of age. Any member
 707 of the system who has completed eight or more years of membership service and who has
 708 attained age 60 may elect to retire prior to age 62, provided that in such event, his the
 709 member's retirement allowance shall be reduced by 5 percent for each year below age 62."

710 **SECTION 28.**

711 Said title is further amended by revising Code Section 47-6-84, relating to termination of
 712 retirement allowance upon return to service and retirement benefits for retired members
 713 returning to service in the General Assembly, as follows:

714 "47-6-84.

715 (a)(1) Except as provided in paragraph (2) of this subsection, if any retired member who
 716 has not yet reached normal retirement age returns to the service of the state in any
 717 position, including, without limitation, service directly or indirectly as or for an
 718 independent contractor, except as a member of the General Assembly, his the member's
 719 retirement allowance shall cease. Upon cessation of such service, the retired member,
 720 after proper notification to the board, shall receive the same retirement allowance which
 721 he the member was receiving prior to returning to state service.

722 (2) Notwithstanding any other provisions in this chapter to the contrary, the retirement
 723 allowance of a retired member who has reached normal retirement age or has not been
 724 employed by or rendered service for the state and who returns to the service of the state
 725 in any position, including, without limitation, service directly or indirectly as or for an
 726 independent contractor, other than as a member of the General Assembly shall not cease
 727 provided that such member performs no more than 1,040 hours of such service in any
 728 calendar year; ~~provided, however, that no such retired member shall be eligible for~~
 729 ~~employee health benefits other than those available to the member as a part of his~~

730 ~~retirement benefits or for any annual leave, any sick leave, or any other employee benefits~~
 731 ~~available to a state employee in the classified service of the State Merit System of~~
 732 ~~Personnel Administration.~~

733 (b)(1) If a retired member returns to service as a member of the General Assembly after
 734 the member has reached normal retirement age, the retired member may either continue
 735 to receive a retirement benefit while serving as a member of the General Assembly or
 736 reestablish active membership in the retirement system. If the election is to reestablish
 737 active membership in the retirement system, the member shall have the same creditable
 738 service which the member possessed at the time of retirement and shall accumulate
 739 additional creditable service ~~as~~ so long as such active membership continues. Except as
 740 otherwise provided by paragraph (2) of this subsection, a retired member who returns to
 741 service in the General Assembly shall make the election provided for in this paragraph
 742 within 30 days after taking office. Such election shall be made in writing to the board of
 743 trustees and shall be irrevocable. If a retired member returns to service as a member of
 744 the General Assembly before the member has reached normal retirement age, the retired
 745 member shall reestablish active membership in the retirement system. The member shall
 746 have the same creditable service which the member possessed at the time of retirement
 747 and shall accumulate additional creditable service so long as such active membership
 748 continues.

749 (2) A retired member who returned to service in the General Assembly prior to the
 750 existence of the option to reestablish active membership in the retirement system shall
 751 have the right to make the election provided for in paragraph (1) of this subsection at any
 752 time prior to January 1, 1991. In addition to creditable service provided for in
 753 paragraph (1) of this subsection, any such retired member who elects to reestablish active
 754 membership in the retirement system may obtain creditable service for service in the
 755 General Assembly rendered from the time of returning to service in the General
 756 Assembly until the date of reestablishing active membership in the retirement system.
 757 In order to obtain such creditable service, the member shall pay to the board of trustees
 758 the employee contributions which would have been paid to the retirement system during
 759 the period for which such creditable service is claimed, plus regular interest thereon
 760 compounded annually from the time the service in the General Assembly was rendered
 761 until the date of payment."

762 **SECTION 29.**

763 Said title is further amended by revising Code Section 47-6-85, relating to refund of
 764 accumulated contributions upon termination of membership, as follows:

765 "47-6-85.

766 Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's
 767 accumulated contributions shall be 100 percent vested and nonforfeitable at all times.
 768 Upon the request of a member who ceases to be a member of the system for reasons other
 769 than retirement or death, ~~he~~ the member shall be paid ~~his~~ the member's accumulated
 770 contributions as soon as feasible after such request. If ~~he~~ the member dies before payment
 771 has been made, the amount of ~~his~~ the member's accumulated contributions shall be paid to
 772 such person as ~~he~~ the member has nominated by written designation filed with the board,
 773 otherwise to ~~his~~ the member's estate."

774 **SECTION 30.**

775 Said title is further amended by revising Code Section 47-22-1, relating to definitions relative
 776 to the Georgia Deferred Contribution Plan, by adding new paragraph to read as follows:

777 "(8) 'Plan year' means the 12 month period beginning July 1 of each year."

778 **SECTION 31.**

779 Said title is further amended by revising Code Section 47-22-9, relating to payment of lump
 780 sum on termination of employment and continued accrual of earnings absent request for
 781 lump sum payment, as follows:

782 "47-22-9.

783 (a) Upon the written request of a member who ceases to be an employee, a lump sum
 784 amount shall be paid to such person equal to the total amount credited to such member's
 785 account at the time the member ceases to be an employee. If such member dies before
 786 payment has been made, such payment shall be made to such person as the member has
 787 nominated, by written designation filed with the board; otherwise to the member's estate.
 788 If no such request is made, the member's account shall continue to accrue earnings in the
 789 same manner as any member's account; ~~provided, however, that~~

790 (b) Notwithstanding the provisions of subsection (a) of this Code section, if any member
 791 who ceases to be an employee has less than such minimum amount as determined by the
 792 board, but not more than \$5,000.00, credited to such member's account, the board may, at
 793 its option, require such member to withdraw all such moneys and the member's account
 794 shall be closed; provided, however, that the board's option to require withdrawal of small
 795 account balances shall be applied in a consistent manner; provided, further, that if the board
 796 provides for mandatory distributions of account balances greater than \$1,000.00 and if a
 797 member does not elect to have such distribution paid directly to an eligible retirement plan
 798 specified by the member in a direct rollover or to receive the distribution directly, the plan

799 shall pay the distribution in a direct rollover to an individual retirement plan designated by
 800 the board in accordance with Section 401(a)(31)(B) of the federal Internal Revenue Code.
 801 (c) Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's account
 802 balance in the plan shall at all times be 100 percent vested and nonforfeitable."

803 **SECTION 32.**

804 Said title is further amended by revising Code Section 47-23-1, relating to definitions relative
 805 to the Georgia Judicial Retirement System, as follows:

806 "47-23-1.

807 As used in this chapter, the term:

808 (1) 'Accumulated contributions' means the sum of all amounts deducted from the
 809 earnable compensation of a member or paid by the member to establish or reestablish
 810 credit for service, which amounts are credited to his or her individual account together
 811 with regular interest thereon. Such term shall also include the amount of employee
 812 contributions paid by the employer on behalf of members, together with regular interest
 813 thereon, excluding employee contributions paid by the employer or the employee for
 814 group term life insurance coverage.

815 ~~(1)~~(2) 'Average earnable monthly compensation' means the average earnable monthly
 816 compensation of a member during the 24 consecutive months of creditable service
 817 producing the highest such average.

818 ~~(2)~~(3) 'Beneficiary' means any person other than a retired member of a retirement system
 819 who is receiving a benefit from that retirement system.

820 ~~(3)~~(4) 'Board' means the Board of Trustees of the Georgia Judicial Retirement System.

821 ~~(4)~~(5) 'County pension or retirement fund' means only those certain pension and
 822 retirement funds provided for by local Acts applicable to certain named counties.

823 ~~(5)~~(6) 'Covered position' means an employment position eligible for membership under
 824 this chapter.

825 ~~(6)~~(7) 'Creditable service' means prior service and membership service for which credit
 826 is allowable under this chapter, but in no case shall more than one year of service be
 827 creditable for all service in one calendar year, nor shall it include any service which has
 828 been or may be credited to a member by any other public retirement system of this state.

829 ~~(7)~~(8) 'District attorney' means any district attorney holding office on July 1, 1998, and
 830 any district attorney taking office on or after July 1, 1998, except that the term district
 831 attorney shall not include any district attorney:

832 (A) Who was serving as a district attorney on June 30, 1998, and who was not a
 833 member of the District Attorneys' Retirement System; or

834 (B) Who is a member of any other publicly supported retirement or pension system or
 835 fund created by any law of this state, if the retirement or pension benefits under such
 836 other publicly supported retirement or pension system or fund are based wholly or
 837 partially on the compensation payable to the district attorney from state funds.

838 ~~(8)~~(9) 'District Attorneys' Retirement System' means that retirement system created by
 839 Chapter 13 of this title as such chapter existed prior to July 1, 1998.

840 ~~(9)~~(10) 'Earnable monthly compensation' means the full rate of regular monthly
 841 compensation payable to a member employee for his or her full working time, excluding
 842 any local supplements.

843 ~~(10)~~(11) 'Fund' means the Georgia Judicial Retirement System Fund provided for by
 844 Code Section 47-23-22. The fund shall include, but is not limited to, a pension
 845 accumulation fund in which the benefits described in Article 6 of this chapter will be held
 846 and an employee contribution accumulation fund in which the contributions described in
 847 Article 5 of this chapter will be held.

848 ~~(11)~~(12) 'Judge, solicitor, or solicitor-general of a state court' means a person elected or
 849 appointed to such office for a specific term. Such term shall not include any person acting
 850 as a judge or solicitor of a state court on a temporary basis or serving as judge or
 851 solicitor-general pro tempore of a state court.

852 ~~(12)~~(13) 'Juvenile court judge' means a juvenile court judge now or hereafter appointed
 853 or otherwise holding office pursuant to Code Section 15-11-18 relative to the creation of
 854 juvenile courts, except judges of the superior courts sitting as juvenile court judges and
 855 juvenile court judges who are members of local retirement or pension systems created by
 856 local law.

857 ~~(13)~~(14) 'Predecessor retirement system' means the District Attorneys' Retirement
 858 System, the Superior Court Judges Retirement System, and the Trial Judges and
 859 Solicitors Retirement Fund, collectively or individually.

860 ~~(14)~~(15) 'Regular interest' means interest at such rate as shall be determined by the board
 861 of trustees, which interest shall be compounded annually.

862 ~~(15)~~(16) 'Retirement system' means the Georgia Judicial Retirement System.

863 ~~(16)~~(17) 'State court' means any court created pursuant to the provisions of Chapter 7 of
 864 Title 15 or any court continued as a state court by Article VI, Section X of the
 865 Constitution of the State of Georgia; provided, however, that such term shall include the
 866 State Court of Fulton County subject to the provisions of Code Section 47-23-50.

867 ~~(17)~~(18) 'Superior Court Judges Retirement System' means that retirement system
 868 created by Chapter 9 of this title as such chapter existed prior to July 1, 1998.

869 ~~(18)~~(19) 'Trial Judges and Solicitors Retirement Fund' means that retirement fund created
 870 by Chapter 10 of this title as such chapter existed prior to July 1, 1998."

871 **SECTION 33.**

872 Said title is further amended by adding a new Code section to read as follows:

873 "47-23-30.874 For purposes of complying with federal Internal Revenue Service rules and regulations, the
875 plan year for this retirement system shall be the 12 month period beginning on July 1 of
876 each year."877 **SECTION 34**878 Said title is further amended by revising Code Section 47-23-102, relating to vesting and
879 benefits upon retirement, as follows:880 "47-23-102.881 The right of a member to receive benefits under this chapter shall vest after the member
882 obtains ten years of creditable service; provided, however, that no member shall receive
883 a retirement benefit prior to attaining the age of 60 years. Except as otherwise provided
884 in Article 2 of Chapter 1 of this title, a member's accumulated contributions shall be 100
885 percent vested and nonforfeitable at all times. Any member retiring on or after July 1,
886 1996, and any member who was retired on July 1, 1996, with 16 years or more of
887 creditable service shall receive a benefit equal to 66.66 percent, plus 1 percent for each year
888 of creditable service over 16 years, of the member's salary; provided, however, that no
889 member shall receive more than 24 years of creditable service. Any member retiring with
890 less than 16 years of creditable service may retire at a reduced benefit pursuant to Code
891 Section 47-23-103. Normal retirement age under this retirement system shall be the date
892 the member has reached age 60 years of age, provided that he or she has at least ten years
893 of creditable service. For purposes of Section 402(1) of the federal Internal Revenue Code
894 regarding distributions from governmental plans for health and long-term care insurance
895 for public safety officers, normal retirement age shall be the earliest date when the member
896 has satisfied the requirements for a retirement under this or the predecessor retirement
897 system. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's
898 right to his or her retirement allowance is nonforfeitable upon attainment of normal
899 retirement age. Any member who was retired on July 1, 1996, with more than 16 years of
900 creditable service shall receive in July, 1998, a one-time benefit payment equal to two
901 times the product of 1 percent of the salary paid to such judge at the time of his or her
902 retirement multiplied by the number of years of creditable service in excess of 16 years."903 **SECTION 35.**904 Said title is further amended by revising Code Section 47-23-109, relating to cessation of
905 retirement allowance for resuming state service, as follows:

906 "47-23-109.

907 (a) Except as provided in subsection (b) of this Code section, if any retired member who
908 has not yet reached normal retirement age returns to the service of the state in any position,
909 including, without limitation, service directly or indirectly as or for an independent
910 contractor, except as a member of the General Assembly, his or her retirement allowance
911 shall cease. Upon cessation of such service, the retired member, after proper notification
912 to the board, shall receive the same retirement allowance which he or she was receiving
913 prior to returning to state service, calculated with any increases granted during the period
914 of compensation.

915 (b) The retirement allowance of a retired member who has reached normal retirement age
916 and who returns to the service of the state in any position, including, without limitation,
917 service directly or indirectly as or for an independent contractor, other than as a member
918 of the General Assembly shall not cease provided that such member performs no more than
919 1,040 hours of such service in any calendar year; ~~provided, however, that no such retired~~
920 ~~member shall be eligible for employee health benefits other than those available to the~~
921 ~~member as a part of his or her retirement benefits or for any annual leave, any sick leave,~~
922 ~~or any other employee benefits available to a state employee in the classified service of the~~
923 ~~State Merit System of Personnel Administration."~~

924

SECTION 36.

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