

House Bill 202 (COMMITTEE SUBSTITUTE)

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

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 provide for the payment of benefits; to provide  
4 for rollover of certain funds; to provide for a limit on benefits; to provide for application of  
5 service credits; to provide for the holding of pension funds in trust; to provide for a normal  
6 retirement age; to provide for vesting; to ratify certain prior changes to public retirement  
7 plans; to provide for related changes in public retirement law to comply with federal law and  
8 regulations; to provide an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

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

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

20 **SECTION 2.**

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

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

34

### SECTION 3.

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

36 "47-1-13.1.

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

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

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

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

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

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

61 **SECTION 4.**

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

64 "47-1-80.

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

72 **SECTION 5.**

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

74 "47-1-80.1.

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

77 (1)(A) Benefits shall begin by the required beginning date, which is the later of April  
 78 1 of the calendar year following the calendar year in which the plan member reaches  
 79 70 1/2 years of age or April 1 of the calendar year in which the plan member terminates  
 80 employment. If a plan member fails to apply for retirement benefits by the required  
 81 beginning date, the applicable public retirement or pension system shall begin  
 82 distribution of the benefit as required by Section 401(a)(9) of the federal Internal  
 83 Revenue Code.

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

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

- 94 (3) The life expectancy of a plan member, the plan member's spouse, or the plan  
 95 member's designated beneficiary shall not be recalculated after the initial determination  
 96 for purposes of determining benefits;
- 97 (4) If a plan member dies after the required distribution of benefits has begun, the  
 98 remaining portion of the plan member's interest shall be distributed at least as rapidly as  
 99 under the method of distribution before the plan member's death and no longer than the  
 100 remaining period over which the distribution commenced; and
- 101 (5) If a plan member dies before the required distribution of the plan member's benefits  
 102 has begun, the plan member's entire interest shall be either distributed in accordance with  
 103 federal regulations over the life or the life expectancy of the designated beneficiary, with  
 104 the distributions beginning no later than December 31 of the calendar year immediately  
 105 following the calendar year of the plan member's death or distributed by December 31  
 106 of the calendar year containing the fifth anniversary of the plan member's death.
- 107 (b) The amount of an annuity paid to a plan member's designated beneficiary shall not  
 108 exceed the maximum determined under the incidental death benefit requirements of the  
 109 federal Internal Revenue Code.
- 110 (c) The death and disability benefits provided by the plan shall be limited by the incidental  
 111 benefit rule set forth in Section 401(a)(9)(G) of the federal Internal Revenue Code and  
 112 Federal Treasury Regulation Section 1.401-1(b)(1)(i) or any successor to such regulation."

113 **SECTION 6.**

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

117 "47-1-81.

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

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

122 (2) 'Distributee' means:

123 (A) An employee;

124 (B) A former employee;

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

126 (D) A nonspouse beneficiary who is a designated beneficiary as defined in Section  
 127 401(a)(9)(E) of the federal Internal Revenue Code.

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

- 130 (A) An individual retirement account described in Section 408(a) of the federal Internal  
131 Revenue Code;
- 132 (B) An individual retirement annuity described in Section 408(b) of the federal Internal  
133 Revenue Code;
- 134 (C) An annuity plan described in Section 403(a) of the federal Internal Revenue Code;
- 135 (D) A qualified trust described in Section 401(a) of the federal Internal Revenue Code;
- 136 (E) An annuity contract described in Section 403(b) of the federal Internal Revenue  
137 Code.
- 138 (F) An eligible deferred compensation plan under Section 457(b) of the federal Internal  
139 Revenue Code that is maintained by a state, political subdivision or agency or  
140 instrumentality of a state, or a political subdivision of a state and which agrees to  
141 separately account for amounts transferred into that plan from the public retirement or  
142 pension system under this title; and
- 143 (G) A Roth IRA described in Section 408A of the federal Internal Revenue Code.
- 144 (4) 'Eligible rollover distribution' means any distribution of all or any portion of the  
145 balance to the credit of the distributee; provided, however, such term shall not include:
- 146 (A) Any distribution that is one of a series of substantially equal periodic payments  
147 made not less frequently than annually for the life or life expectancy of the distributee  
148 or the joint lives or joint life expectancies of the distributee and the distributee's  
149 designated beneficiary, or for a specified period of ten years or more;
- 150 (B) Any distribution to the extent such distribution is required under Section 401(a)(9)  
151 of the federal Internal Revenue Code;
- 152 (C) The portion of any distribution that is not includable in gross income; or
- 153 (D) Any other distribution that is reasonably expected to total less than \$200.00 during  
154 the year.
- 155 Such term shall include a distribution to a surviving spouse made on or after January 1,  
156 2002.
- 157 (b) Notwithstanding any other provisions of this title to the contrary that would otherwise  
158 limit a person's election under this Code section, a member of a retirement or pension  
159 system subject to this title may elect, at the time and in the manner prescribed by the board  
160 of trustees of such system, to have any portion of an eligible rollover distribution, as such  
161 term is defined in Section 402(c) of the federal Internal Revenue Code, paid directly to an  
162 eligible retirement plan, as such term is defined in Section 402(c) of the federal Internal  
163 Revenue Code, specified by the person in a direct rollover.
- 164 (c) A portion of a distribution made on or after January 1, 2002, shall not fail to be an  
165 eligible rollover distribution merely because the portion consists of after-tax employee

166 contributions that are not includable in gross income; provided, however, that such portion  
 167 may be transferred only to:

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

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

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

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

178 (d) Notwithstanding any other provision of this title to the contrary, a nonspouse  
 179 designated beneficiary may roll over the distribution only to an individual retirement  
 180 account or individual retirement annuity established for the purpose of receiving the  
 181 distribution, and the account or annuity shall be treated as an inherited individual  
 182 retirement account or annuity."

183 **SECTION 7.**

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

186 "47-1-82.

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

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

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

197 (3) 'Compensation' means, for purposes of applying the limitations of Section 415 of the  
 198 federal Internal Revenue Code and for no other purpose, a plan member's wages as  
 199 defined in Section 3401(a) of the federal Internal Revenue Code (wages subject to  
 200 income tax withholding at the source, but without regard to exceptions contained in  
 201 Section 3401(a) of the federal Internal Revenue Code for wages based on the nature or

202 location of the employment or the services performed). The term shall also include the  
203 following:

204 (A) For limitation years beginning on or after December 31, 1997, for purposes of  
205 applying the limitations of Section 415 of the federal Internal Revenue Code, amounts  
206 that would otherwise be included in compensation but for an election under Sections  
207 125(a), 402(e)(3), 402(h)(1)(B), 402(k), and 457(b) of the federal Internal Revenue  
208 Code;

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

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

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

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

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

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

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

231 (6) 'Maximum permissible amount' means:

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

235 (B) For limitation years beginning on and after January 1, 1995, but before January 1,  
236 2001, \$90,000; and

237 (C) For limitation years beginning on and after January 1, 2002, \$160,000.00, as  
238 adjusted by the secretary of the treasury of the United States for each calendar year,

239 with the new limitation to apply to limitation years ending within the calendar year of  
240 the date of the adjustment.

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

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

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

253 (1) The value of a qualified joint and survivor annuity;

254 (2) The value of benefits that are not directly related to retirement benefits, such as a  
255 disability benefit, preretirement death benefits, and postretirement medical benefits; or

256 (3) The value of postretirement cost-of-living increases provided that the amount payable  
257 to the plan member under the nonannuity benefit form in any limitation year shall not be  
258 greater than the Section 415(b) of the federal Internal Revenue Code limit applicable at  
259 the annuity starting date as increased in subsequent years pursuant to Section 415(d) of  
260 the federal Internal Revenue Code and Section 1.415(d)-1 of the Treasury Regulations.

261 The determination of the annual benefit shall disregard benefits attributable to employee  
262 contributions or rollover contributions or the assets transferred from a qualified plan that  
263 was not maintained by an employer.

264 (d) If the annual benefit commences when the plan member has fewer than ten years of  
265 participation in the applicable public retirement or pension system or any predecessor  
266 public retirement or pension system, the dollar limitation shall be reduced by one-tenth for  
267 each year less than ten, but in no event shall be less than one-tenth of the unreduced dollar  
268 limitation.

269 (e)(1) If the payment of benefits under the public retirement or pension system  
270 commences before age 62 or after age 65, the dollar limitation shall be adjusted as the  
271 actuarial equivalent of the dollar limitation payable at age 62 or age 65, as follows:

272 (A) If the age at which the benefit is payable is less than 62, the dollar limitation shall  
273 be reduced to reflect the lesser of the following calculations:

274 (i) Reduce the dollar limitation using the interest rate and mortality table or tabular  
 275 factors, as applicable, which are set forth in the public retirement or pension system  
 276 for the reduction of benefits for early retirement benefits; or  
 277 (ii) Reduce the dollar limitation using 5 percent interest and the applicable mortality  
 278 table;  
 279 (B) For limitation years beginning before January 1, 2002, nothing in this paragraph  
 280 shall reduce the applicable dollar limitation below \$75,000.00 if the annual benefit  
 281 begins at or after age 55; and  
 282 (C) For limitation years beginning before January 1, 2002, if the annual benefit begins  
 283 before age 55, nothing in this paragraph shall reduce the dollar limitation below the  
 284 actuarial equivalent of the \$75,000.00 limitation for age 55.  
 285 (2) If a plan member is a qualified member as such term is defined under Section  
 286 415(b)(2)(G) of the federal Internal Revenue Code, he or she may retire before age 62  
 287 without a reduction in the dollar limitation if at least 15 years of service is required to  
 288 receive a full benefit under the public retirement or pension system.  
 289 (3) If the age at which the benefit is payable is greater than age 65, the age-adjusted  
 290 dollar limitation shall be determined by increasing the dollar limitation on an actuarially  
 291 equivalent basis. The increased age-adjusted dollar limitation shall be the amount  
 292 computed using 5 percent interest and the applicable mortality table."

293 **SECTION 8.**

294 Said title is further amended by adding four new Code sections to read as follows:

295 "47-1-83.

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

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

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

314 (d) In no event shall a plan member's annual benefit payable in any limitation year from  
315 a retirement or pension system be greater than the limit applicable at the annuity starting  
316 date, as increased in subsequent years pursuant to Section 415(d) of the federal Internal  
317 Revenue Code and regulations promulgated thereunder. If the form of benefit without  
318 regard to the automatic benefit increases feature is not a straight life annuity, then the  
319 preceding sentence is applied by reducing the Section 415(b) of the federal Internal  
320 Revenue Code limit applicable at the annuity starting date to an actuarially equivalent  
321 amount, to be determined by using the assumption specified in Treasury Regulation Section  
322 1.415(b)-1(c)(2)(ii) that takes into account the death benefit under the form of benefit.

323 47-1-84.

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

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

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

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

341 47-1-85.

342 (a) The assets of a public retirement or pension system shall be held in trust, and it shall  
343 not be possible at the time prior to satisfaction of all liabilities to plan members and their  
344 beneficiaries under the public retirement or pension system for any part of said assets to

345 be used for, or diverted to, purposes other than for the exclusive benefit of plan members  
 346 and their designated beneficiaries and for paying reasonable expenses of the public  
 347 retirement or pension system and trust fund.

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

350 47-1-86.

351 Any other provision of this chapter to the contrary notwithstanding, to the extent that the  
 352 Board of Trustees of the Georgia Municipal Employees Benefit System created by Chapter  
 353 5 of this title has adopted a plan document or rules and regulations that are in compliance  
 354 with Sections 401(a) and 414(d) and other applicable sections of the federal Internal  
 355 Revenue Code, such plan document or rules and regulations shall govern such system  
 356 notwithstanding any conflicting provision in this chapter; provided, however, that the  
 357 provisions of Code Section 47-1-13 shall in any event apply to said system."

#### 358 **SECTION 9.**

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

361 "(1) 'Accumulated contributions' means the sum of all the amounts deducted from the  
 362 earnable compensation of a member and or paid by the member to establish or reestablish  
 363 credit for service, which amounts are credited to his the member's individual account in  
 364 the annuity savings fund, together with regular interest thereon. Beginning July 1, 1980,  
 365 'accumulated contributions' also includes the amount of employee contributions paid by  
 366 the employer on behalf of the employee and credited to the employee's individual account  
 367 in the annuity savings fund, together with regular interest thereon, excluding employee  
 368 contributions paid by the employer or the employee for group term life insurance."

#### 369 **SECTION 10.**

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

372 "(15) 'Earnable compensation' means the full rate of regular compensation payable to a  
 373 member employee for his or her full normal working time, excluding any supplements  
 374 from local funds. In cases where compensation includes maintenance, the board of  
 375 trustees shall fix the value of that part of the compensation not paid in cash. Such term  
 376 shall include contributions made to a qualified transportation plan, within the meaning  
 377 of Section 132(f) of the federal Internal Revenue Code, and before tax or salary deferral  
 378 contributions made under Sections 125, 401(k), 402(g)(3), 457, or 414(h) of the federal

379 Internal Revenue Code to this retirement system or to any other retirement plan  
 380 maintained by an employer."

381 **SECTION 11.**

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

384 "(17) 'Employer' means:

385 (A) The state or any department, bureau, institution, board, or commission of the state  
 386 or any county, city-county, or city board, the employees of which are under a state  
 387 merit system of personnel administration, including a merit system for employees of  
 388 the Department of Public Safety, and all state departments under a tenure system as  
 389 established by law, provided that such county, city-county, or city board may notify the  
 390 board of trustees that it will not participate in the benefits of the retirement system, such  
 391 notice to be given in writing on or before the commencement date or before persons are  
 392 employed by it. Any employee of a county, city-county, or city board having an  
 393 existing local retirement system may elect to continue to participate in such existing  
 394 local system but shall not participate in two systems, and his or her election shall be  
 395 final on the commencement date under this chapter. Any county, city-county, or city  
 396 employee who elects to become a member of this retirement system and who was a  
 397 member of an existing local retirement system shall transfer to the board of trustees any  
 398 equity he or she has in the local system.

399 (B) Any other provisions of law to the contrary notwithstanding, the adjutant general  
 400 is authorized, though not directed, to establish a merit system and to perform all of the  
 401 duties and obligations of an 'employer' for all civilians employed in or with the Army  
 402 National Guard of Georgia and the Air National Guard of Georgia, even though such  
 403 employees may be paid with federal funds. The adjutant general is further authorized  
 404 to make and enter into such agreements and take such actions as are necessary to  
 405 provide for all contributions and payments specified in this chapter, from funds made  
 406 available by the federal government, and otherwise to comply with this chapter so as  
 407 to make this chapter applicable to such civilian employees.

408 (C) 'Employer' shall include any new state agency described under Code Section  
 409 47-2-70.1 and any other entity authorized by law to report any of its employees as  
 410 members of this system."

411 **SECTION 12.**

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

415 "(16.6) 'Employee' shall not include an individual classified by an employer as an  
 416 independent contractor or a leased employee within the meaning of Section 414(n) of the  
 417 federal Internal Revenue Code, even if such individual is later reclassified by the Internal  
 418 Revenue Service as a common law employee."

419 "(28.1) 'Plan year' means the 12 month period beginning on July 1 of each year."

420 **SECTION 13.**

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

422 "47-2-33.

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

426 **SECTION 14.**

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

430 "(j) The employee contributions described in this Code section that are credited to the  
 431 member's annuity savings account, although designated as employee contributions, are  
 432 being paid by the employer as 'pick-up' contributions in accordance with Section 414(h)  
 433 of the federal Internal Revenue Code. As such, these contributions are mandatory and no  
 434 member is entitled under any circumstances to receive such contributions in cash in lieu  
 435 of having them contributed to the retirement system. Such contributions shall be 100  
 436 percent vested for all purposes under the retirement system."

437 **SECTION 15.**

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

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

441 (1) 'Employee' means full-time officers and employees of a new state agency; provided,  
 442 however, that such term shall not mean an individual classified by an employer as an  
 443 independent contractor or a leased employee within the meaning of Section 414(n) of the

444 Internal Revenue Code, even if such individual is later reclassified by the Internal  
 445 Revenue Service as a common law employee.

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

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

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

455 **SECTION 16.**

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

460 "47-2-92.

461 Any present member who has withdrawn accumulated contributions from either the  
 462 Employees' Retirement System of Georgia or the Teachers Retirement System of Georgia,  
 463 or both, may, after two years of service as a contributing member, reestablish the creditable  
 464 service for which the member would have been eligible if the accumulated contributions  
 465 had not been withdrawn, provided that the member repays into the retirement system an  
 466 amount equal to the amount withdrawn, together with regular interest at the rate of 4 1/4  
 467 percent per annum from the date of withdrawal to the date of repayment, which  
 468 contributions and interest shall be placed in the ~~pension accumulation fund~~ participant's  
 469 individual account in the annuity savings fund. Upon receipt of notice from this retirement  
 470 system to the Teachers Retirement System of Georgia that a member has repaid to this  
 471 retirement system contributions previously withdrawn from the Teachers Retirement  
 472 System of Georgia, the Teachers Retirement System of Georgia shall pay an employer  
 473 contribution plus regular interest into the Employees' Retirement System of Georgia. The  
 474 amount of the employer contribution shall be 6 percent of the reported compensation of the  
 475 member during membership in the Teachers Retirement System of Georgia."

476

**SECTION 17.**

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

480 "47-2-110.

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

502 (2) Normal retirement age, for purposes of the retirement system, shall be the date the  
503 employee has reached 60 years of age, provided that he or she has at least ten years of  
504 creditable service or the age of an employee on the date he or she attains 30 years of  
505 creditable service; provided, however, that the provisions of this paragraph are subject  
506 to change by future legislation in order to comply with federal regulations. For those  
507 members who are in service with the Uniform Division of the Department of Public  
508 Safety as an officer, noncommissioned officer, or trooper, officers and agents of the  
509 Georgia Bureau of Investigation, conservation rangers of the Department of Natural  
510 Resources, or in the Department of Revenue as an alcohol and tobacco officer or agent,  
511 normal retirement age shall be the date the employee has reached 55 years of age,  
512 provided that he or she has at least ten years of creditable service. For purposes of

513 Section 402(l) of the federal Internal Revenue Code regarding distributions from  
 514 governmental plans for health and long-term care insurance for public safety officers,  
 515 normal retirement age shall be the earliest date when the employee has satisfied the  
 516 requirements for a retirement allowance under the retirement system. Except as provided  
 517 under Article 2 of Chapter 1 of this title, a member's right to his or her retirement  
 518 allowance is nonforfeitable upon attainment of normal retirement age.

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

- 521 (A) Those employed as prison guards by the Department of Corrections;
- 522 (B) Those employed by the Uniform Division of the Department of Public Safety as  
 523 officers and troopers;
- 524 (C) Those employed by the Department of Natural Resources as conservation rangers;
- 525 (D) Those employed by the Department of Revenue as alcohol and tobacco officers or  
 526 agents;
- 527 (E) Those employed as officers or agents of the Georgia Bureau of Investigation;
- 528 (F) Those employed by the Department of Transportation as enforcement officers prior  
 529 to July 1, 2001;
- 530 (G) Those employed by the Department of Motor Vehicle Safety as enforcement  
 531 officers on or after July 1, 2001; and
- 532 (H) Those employed by the State Board of Pardons and Paroles as parole officers as  
 533 well as other employees of said board who possess the power of arrest.

534 (2) Those members specified by paragraph (1) of this subsection who may be required  
 535 to retire because of age shall be subject to the laws specifying retirement ages for the  
 536 various classifications of such members or subject to the rules, regulations, or policies  
 537 specifying retirement ages of the various state departments or agencies employing such  
 538 members, provided such rules, regulations, or policies are in compliance with other laws  
 539 of this state. Any state department or agency specified in paragraph (1) of this subsection  
 540 shall be authorized to employ or continue the employment of any member, regardless of  
 541 age, with professional, scientific, or technical skills who is so certified to the board of  
 542 trustees by the state department or agency.

543 (c)(1) As used in this subsection, in addition to the definition provided in Code Section  
 544 47-2-1, the term 'employer' shall also include the retired member's last employer which  
 545 reported to the retirement system prior to the member's effective date of retirement. Such  
 546 term shall also include the Board of Regents of the University System of Georgia.

547 (2) Except as provided in this subsection, if a member accepts paid employment with or  
 548 renders services for pay to any employer, including, without limitation, service directly  
 549 or indirectly as or for an independent contractor, after his or her retirement, payment of

550 his or her retirement allowance shall be suspended and no contributions to the retirement  
 551 system shall be made on account of such service either by that member or his or her  
 552 employer, provided that, upon termination of such service, all rights shall vest in that  
 553 member as if he or she had continued his or her option to retire.

554 ~~(2)(3)~~ The retirement allowance of a retired member who accepts employment with or  
 555 renders services to any employer after his or her retirement shall not be suspended if the  
 556 employee has attained normal retirement age or has not been employed by or rendered  
 557 service for any employer for at least two consecutive calendar months and performs no  
 558 more than 1,040 hours of paid employment or paid service, including, without limitation,  
 559 service as or for an independent contractor, for the employer in any calendar year;  
 560 provided, however, that no such employee so employed shall be eligible for employee  
 561 health benefits other than those available to the member as a part of his or her retirement  
 562 benefits or for any annual leave, any sick leave, or any other employee benefit available  
 563 to a state employee in the classified service of the State Merit System of Personnel  
 564 Administration established by Chapter 20 of Title 45.

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

579 (4) Any employer that employs a retired plan member shall within 30 days of the  
 580 employee's accepting employment notify the board of trustees in writing stating the name  
 581 of the plan member and the number of hours the employee is expected to work annually  
 582 and shall provide such other information as the board may request. If the retired plan  
 583 member performs more than 1,040 hours in any calendar year, the employer shall so  
 584 notify the board of trustees as soon as such information is available. Any employer that  
 585 fails to notify the board of trustees as required by this subsection shall reimburse the  
 586 retirement system for any benefits wrongfully paid. It shall be the duty of the retired plan

587 member seeking employment by the employer to notify the employer of his or her  
 588 retirement status prior to accepting such position. If a retired plan member fails to so  
 589 notify the employer and the employer becomes liable to the retirement system, the plan  
 590 member shall hold the employer harmless for all such liability.

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

596 **SECTION 18.**

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

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

605 **SECTION 19.**

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

609 "47-2-122.

610 Except as provided in Article 2 of Chapter 1 of this title, a member's accumulated  
 611 contributions shall be 100 percent vested and nonforfeitable at all times. The right to a  
 612 service retirement allowance under this chapter shall vest in any member who withdraws  
 613 from service with at least ten years of membership service subsequent to January 1, 1954,  
 614 although ~~he~~ the member has not yet attained 60 years of age, provided that ~~he~~ the member  
 615 has not withdrawn ~~his~~ the member's contributions. Such member shall become entitled to  
 616 a service retirement allowance (1) upon filing an application as provided in Code Section  
 617 47-2-110 and (2) upon attaining the age of 60 or, at ~~his~~ the member's option, at any time  
 618 subsequent thereto after filing such application. The retirement allowance in the case of  
 619 any such member shall be the monthly amount ~~he~~ the member would have received had ~~he~~  
 620 the member retired on the last day ~~he~~ the member contributed to the retirement system and  
 621 at that time had been the same age as when ~~he~~ the member actually retired. If a member

622 with vested rights dies before reaching age 60, ~~his~~ the member's accumulated contributions  
 623 shall be paid to ~~his~~ the member's named living beneficiary, otherwise to ~~his~~ the member's  
 624 estate."

625 **SECTION 20.**

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

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

632 **SECTION 21.**

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

634 "47-4-30.

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

638 **SECTION 22.**

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

642 "(e) The right to a retirement benefit under this chapter shall vest in a member who has ten  
 643 or more years of creditable service if ~~he~~ the member has not withdrawn ~~his~~ the member's  
 644 contributions. Except as otherwise provided in Article 2 of Chapter 1 of this title, a  
 645 member's accumulated contributions shall be 100 percent vested and nonforfeitable at all  
 646 times. A member shall be 100 percent vested in all benefits under the plan upon attainment  
 647 of normal retirement age. Upon attaining ~~his~~ the member's normal retirement age or ~~his~~  
 648 the member's early retirement age, ~~he~~ the member shall begin receiving the appropriate  
 649 retirement benefit provided by Code Section 47-4-101."

650 **SECTION 23.**

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

652 "47-4-106.

653 If any retired member who has not yet reached normal retirement age returns to service as  
 654 a public school employee in any position which normally requires membership in this

655 retirement system, such member's retirement benefit shall cease and the retired member  
 656 shall reestablish active membership in this retirement system. The member shall have the  
 657 same creditable service which the member possessed at the time of retirement and shall  
 658 accumulate additional creditable service so long as such active membership continues.  
 659 Upon cessation of such service, the retired member, after proper notification to the board,  
 660 shall receive a retirement benefit based on the member's total accrued service."

661 **SECTION 24.**

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

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

671 **SECTION 25.**

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

673 "47-6-25.

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

677 **SECTION 26.**

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

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

688

**SECTION 27.**

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

692 "47-6-84.

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

700 (2) Notwithstanding any other provisions in this chapter to the contrary, the retirement  
 701 allowance of a retired member who has reached normal retirement age or has not been  
 702 employed by or rendered service for the state and who returns to the service of the state  
 703 in any position, including, without limitation, service directly or indirectly as or for an  
 704 independent contractor, other than as a member of the General Assembly shall not cease  
 705 provided that such member performs no more than 1,040 hours of such service in any  
 706 calendar year; ~~provided, however, that no such retired member shall be eligible for~~  
 707 ~~employee health benefits other than those available to the member as a part of his~~  
 708 ~~retirement benefits or for any annual leave, any sick leave, or any other employee benefits~~  
 709 ~~available to a state employee in the classified service of the State Merit System of~~  
 710 ~~Personnel Administration.~~

711 (b)(1) If a retired member returns to service as a member of the General Assembly after  
 712 the member has reached normal retirement age, the retired member may either continue  
 713 to receive a retirement benefit while serving as a member of the General Assembly or  
 714 reestablish active membership in the retirement system. If the election is to reestablish  
 715 active membership in the retirement system, the member shall have the same creditable  
 716 service which the member possessed at the time of retirement and shall accumulate  
 717 additional creditable service ~~as~~ so long as such active membership continues. Except as  
 718 otherwise provided by paragraph (2) of this subsection, a retired member who returns to  
 719 service in the General Assembly shall make the election provided for in this paragraph  
 720 within 30 days after taking office. Such election shall be made in writing to the board of  
 721 trustees and shall be irrevocable. If a retired member returns to service as a member of  
 722 the General Assembly before the member has reached normal retirement age, the retired  
 723 member shall reestablish active membership in the retirement system. The member shall  
 724 have the same creditable service which the member possessed at the time of retirement

725 and shall accumulate additional creditable service so long as such active membership  
 726 continues.

727 (2) A retired member who returned to service in the General Assembly prior to the  
 728 existence of the option to reestablish active membership in the retirement system shall  
 729 have the right to make the election provided for in paragraph (1) of this subsection at any  
 730 time prior to January 1, 1991. In addition to creditable service provided for in  
 731 paragraph (1) of this subsection, any such retired member who elects to reestablish active  
 732 membership in the retirement system may obtain creditable service for service in the  
 733 General Assembly rendered from the time of returning to service in the General  
 734 Assembly until the date of reestablishing active membership in the retirement system.  
 735 In order to obtain such creditable service, the member shall pay to the board of trustees  
 736 the employee contributions which would have been paid to the retirement system during  
 737 the period for which such creditable service is claimed, plus regular interest thereon  
 738 compounded annually from the time the service in the General Assembly was rendered  
 739 until the date of payment."

740 **SECTION 28.**

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

743 "47-6-85.

744 Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's  
 745 accumulated contributions shall be 100 percent vested and nonforfeitable at all times.

746 Upon the request of a member who ceases to be a member of the system for reasons other  
 747 than retirement or death, ~~he~~ the member shall be paid ~~his~~ the member's accumulated  
 748 contributions as soon as feasible after such request. If ~~he~~ the member dies before payment  
 749 has been made, the amount of ~~his~~ the member's accumulated contributions shall be paid to  
 750 such person as ~~he~~ the member has nominated by written designation filed with the board,  
 751 otherwise to ~~his~~ the member's estate."

752 **SECTION 29.**

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

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

756 **SECTION 30.**

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

760 "47-22-9.

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

768 (b) Notwithstanding the provisions of subsection (a) of this Code section, if any member  
 769 who ceases to be an employee has less than such minimum amount as determined by the  
 770 board, but not more than \$5,000.00, credited to such member's account, the board may, at  
 771 its option, require such member to withdraw all such moneys and the member's account  
 772 shall be closed; provided, however, that the board's option to require withdrawal of small  
 773 account balances shall be applied in a consistent manner; provided, further, that if the board  
 774 provides for mandatory distributions of account balances greater than \$1,000.00 and if a  
 775 member does not elect to have such distribution paid directly to an eligible retirement plan  
 776 specified by the member in a direct rollover or to receive the distribution directly, the plan  
 777 shall pay the distribution in a direct rollover to an individual retirement plan designated by  
 778 the board in accordance with Section 401(a)(31)(B) of the federal Internal Revenue Code.

779 (c) Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's account  
 780 balance in the plan shall at all times be 100 percent vested and nonforfeitable."

781 **SECTION 31.**

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

784 "47-23-1.

785 As used in this chapter, the term:

786 (1) 'Accumulated contributions' means the sum of all amounts deducted from the  
 787 earnable compensation of a member or paid by the member to establish or reestablish  
 788 credit for service, which amounts are credited to his or her individual account together  
 789 with regular interest thereon. Such term shall also include the amount of employee  
 790 contributions paid by the employer on behalf of members, together with regular interest

791 thereon, excluding employee contributions paid by the employer or the employee for  
 792 group term life insurance coverage.

793 ~~(1)~~(2) 'Average earnable monthly compensation' means the average earnable monthly  
 794 compensation of a member during the 24 consecutive months of creditable service  
 795 producing the highest such average.

796 ~~(2)~~(3) 'Beneficiary' means any person other than a retired member of a retirement system  
 797 who is receiving a benefit from that retirement system.

798 ~~(3)~~(4) 'Board' means the Board of Trustees of the Georgia Judicial Retirement System.

799 ~~(4)~~(5) 'County pension or retirement fund' means only those certain pension and  
 800 retirement funds provided for by local Acts applicable to certain named counties.

801 ~~(5)~~(6) 'Covered position' means an employment position eligible for membership under  
 802 this chapter.

803 ~~(6)~~(7) 'Creditable service' means prior service and membership service for which credit  
 804 is allowable under this chapter, but in no case shall more than one year of service be  
 805 creditable for all service in one calendar year, nor shall it include any service which has  
 806 been or may be credited to a member by any other public retirement system of this state.

807 ~~(7)~~(8) 'District attorney' means any district attorney holding office on July 1, 1998, and  
 808 any district attorney taking office on or after July 1, 1998, except that the term district  
 809 attorney shall not include any district attorney:

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

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

816 ~~(8)~~(9) 'District Attorneys' Retirement System' means that retirement system created by  
 817 Chapter 13 of this title as such chapter existed prior to July 1, 1998.

818 ~~(9)~~(10) 'Earnable monthly compensation' means the full rate of regular monthly  
 819 compensation payable to a member employee for his or her full working time, excluding  
 820 any local supplements.

821 ~~(10)~~(11) 'Fund' means the Georgia Judicial Retirement System Fund provided for by  
 822 Code Section 47-23-22. The fund shall include, but is not limited to, a pension  
 823 accumulation fund in which the benefits described in Article 6 of this chapter will be held  
 824 and an employee contribution accumulation fund in which the contributions described in  
 825 Article 5 of this chapter will be held.

826 ~~(11)~~(12) 'Judge, solicitor, or solicitor-general of a state court' means a person elected or  
 827 appointed to such office for a specific term. Such term shall not include any person acting

828 as a judge or solicitor of a state court on a temporary basis or serving as judge or  
829 solicitor-general pro tempore of a state court.

830 ~~(12)~~(13) 'Juvenile court judge' means a juvenile court judge now or hereafter appointed  
831 or otherwise holding office pursuant to Code Section 15-11-18 relative to the creation of  
832 juvenile courts, except judges of the superior courts sitting as juvenile court judges and  
833 juvenile court judges who are members of local retirement or pension systems created by  
834 local law.

835 ~~(13)~~(14) 'Predecessor retirement system' means the District Attorneys' Retirement  
836 System, the Superior Court Judges Retirement System, and the Trial Judges and  
837 Solicitors Retirement Fund, collectively or individually.

838 ~~(14)~~(15) 'Regular interest' means interest at such rate as shall be determined by the board  
839 of trustees, which interest shall be compounded annually.

840 ~~(15)~~(16) 'Retirement system' means the Georgia Judicial Retirement System.

841 ~~(16)~~(17) 'State court' means any court created pursuant to the provisions of Chapter 7 of  
842 Title 15 or any court continued as a state court by Article VI, Section X of the  
843 Constitution of the State of Georgia; provided, however, that such term shall include the  
844 State Court of Fulton County subject to the provisions of Code Section 47-23-50.

845 ~~(17)~~(18) 'Superior Court Judges Retirement System' means that retirement system  
846 created by Chapter 9 of this title as such chapter existed prior to July 1, 1998.

847 ~~(18)~~(19) 'Trial Judges and Solicitors Retirement Fund' means that retirement fund created  
848 by Chapter 10 of this title as such chapter existed prior to July 1, 1998."

849 **SECTION 32.**

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

851 "47-23-30.

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

855 **SECTION 33.**

856 Said title is further amended by revising Code Section 47-23-102, relating to vesting and  
857 benefits upon retirement, as follows:

858 "47-23-102.

859 The right of a member to receive benefits under this chapter shall vest after the member  
860 obtains ten years of creditable service; provided, however, that no member shall receive  
861 a retirement benefit prior to attaining the age of 60 years. Except as otherwise provided  
862 in Article 2 of Chapter 1 of this title, a member's accumulated contributions shall be 100

863 percent vested and nonforfeitable at all times. Any member retiring on or after July 1,  
 864 1996, and any member who was retired on July 1, 1996, with 16 years or more of  
 865 creditable service shall receive a benefit equal to 66.66 percent, plus 1 percent for each year  
 866 of creditable service over 16 years, of the member's salary; provided, however, that no  
 867 member shall receive more than 24 years of creditable service. Any member retiring with  
 868 less than 16 years of creditable service may retire at a reduced benefit pursuant to Code  
 869 Section 47-23-103. Normal retirement age under this retirement system shall be the date  
 870 the member has reached age 60 years of age, provided that he or she has at least ten years  
 871 of creditable service. For purposes of Section 402(1) of the federal Internal Revenue Code  
 872 regarding distributions from governmental plans for health and long-term care insurance  
 873 for public safety officers, normal retirement age shall be the earliest date when the member  
 874 has satisfied the requirements for a retirement under this or the predecessor retirement  
 875 system. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's  
 876 right to his or her retirement allowance is nonforfeitable upon attainment of normal  
 877 retirement age. Any member who was retired on July 1, 1996, with more than 16 years of  
 878 creditable service shall receive in July, 1998, a one-time benefit payment equal to two  
 879 times the product of 1 percent of the salary paid to such judge at the time of his or her  
 880 retirement multiplied by the number of years of creditable service in excess of 16 years."

881

#### SECTION 34.

882 Said title is further amended by revising Code Section 47-23-109, relating to cessation of  
 883 retirement allowance for resuming state service, as follows:

884 "47-23-109.

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

893 (b) The retirement allowance of a retired member who has reached normal retirement age  
 894 and who returns to the service of the state in any position, including, without limitation,  
 895 service directly or indirectly as or for an independent contractor, other than as a member  
 896 of the General Assembly shall not cease provided that such member performs no more than  
 897 1,040 hours of such service in any calendar year; ~~provided, however, that no such retired~~  
 898 ~~member shall be eligible for employee health benefits other than those available to the~~

899 ~~member as a part of his or her retirement benefits or for any annual leave, any sick leave,~~  
900 ~~or any other employee benefits available to a state employee in the classified service of the~~  
901 ~~State Merit System of Personnel Administration."~~

902 **SECTION 35.**

903 This Act shall become effective upon its approval by the Governor or upon its becoming law  
904 without such approval.

905 **SECTION 36.**

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