

House Bill 546

By: Representatives Weldon of the 3rd, Maxwell of the 17th, Lane of the 167th, Neal of the 1st, Holt of the 112th, and others

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 relative to the Georgia Firefighters' Pension Fund; to
3 provide that part-time firefighters shall be eligible for membership in such fund; to repeal a
4 certain prohibition relative to creditable service; to increase the penalty for making false
5 statements or falsifying documents; to provide for related matters; to repeal Chapter 7A of
6 said title, relating to the Georgia Class Nine Fire Department Pension Fund; to provide
7 conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

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

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

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

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

27 determines is substantially equivalent under rating standards published by a rating
 28 organization licensed by the Commissioner of Insurance performing similar rating
 29 functions which standards are maintained on file with the Commissioner of Insurance
 30 and which have not been disapproved by the Commissioner.

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

35 SECTION 2.

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

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

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

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

52 SECTION 3.

53 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
 54 47-7-61, relating to tax on premiums charged by fire insurance companies for certain classes
 55 of coverage, exclusions, and penalty for failure to report and pay such tax, as follows:

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

62 **SECTION 4.**

63 Said title is further amended by revising paragraph (2) of subsection (e) of Code Section
 64 47-7-61, relating to tax on premiums charged by fire insurance companies for certain classes
 65 of coverage, exclusions, and penalty for failure to report and pay such tax, as follows:

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

76 **SECTION 5.**

77 Said title is further amended by revising Code Section 47-7-81, relating to the effect of the
 78 failure of a volunteer fire department to hold required drills and the effect of a volunteer
 79 firefighter to meet attendance requirements, as follows:

80 "47-7-81.

81 (a)(1) The board is authorized to prescribe the minimum monthly and annual number of
 82 hours of drills and meetings required to be conducted by a volunteer fire department as
 83 a condition to qualification of service by a firefighter or volunteer firefighter with such
 84 department for credit toward retirement and other benefits under this chapter.

85 (2) Any volunteer fire department which fails to hold at least eight hours of drills and
 86 meetings per month for three months in any calendar year or such greater requirements
 87 as may be established by the board shall not be classified as a volunteer fire department
 88 for such calendar year, and the members of such department shall not be entitled to
 89 receive credit for service during such calendar year. Such members shall be entitled to
 90 a refund of 95 percent of the dues paid during such period.

91 (b)(1) The board is authorized to prescribe the monthly and annual percentage of
 92 attendance at drills, meetings, and fires necessary for volunteer and part-time firefighters
 93 to receive credit for service toward retirement and other benefits under this chapter and
 94 to establish the form of reports required to be filed with the board concerning such
 95 matters and the time within which such reports ~~must~~ shall be filed with the board. In no
 96 case shall the annual percentage be set by the board at less than 50 percent of all drills,
 97 meetings, and fires in any calendar year.

98 (2) Any volunteer or part-time firefighter who fails to meet the attendance requirements
 99 relative to drills, meetings, and fires in this Code section, or such greater requirement as
 100 may be established by the board for the calendar year, shall not be granted credit for such
 101 year's service; and, in the event the member has paid any dues into the fund for such
 102 period, the member shall be entitled to a refund of 95 percent of such dues so paid.

103 (c) The board is authorized to prescribe the monthly and annual hourly requirements in
 104 conjunction with the Georgia Firefighter Standards and Training Council necessary to
 105 receive credit for service toward retirement and other benefits under this chapter and to
 106 establish the form of reports required to be filed with the board concerning such matters
 107 and the time within which such reports ~~must~~ shall be filed with the board. In no case shall
 108 the average weekly hourly requirement be less than 20 hours per week for any calendar
 109 year."

110 SECTION 6.

111 Said title is further amended by revising paragraph (1) of subsection (b) of Code Section
 112 47-7-83, relating to service credit of a member of the Georgia Firefighters' Pension Fund who
 113 is also a member of the Peace Officers' Annuity and Benefit Fund, as follows:

114 "(b)(1) ~~Any Subject to the limitation of subsection (a) of this Code section, any member~~
 115 ~~who first became a member of the fund on or after July 1, 1993, and who~~ is also a
 116 member of the Peace Officers' Annuity and Benefit Fund shall ~~not~~ be eligible for
 117 creditable service in the fund for any period after ~~that date~~ July 1, 2010, with respect to
 118 which such member is also entitled to any creditable service in the Peace Officers'
 119 Annuity and Benefit Fund."

120 SECTION 7.

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

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

132 **SECTION 8.**

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

137 "(a) In the event of the death of a member of the fund who is in good standing and who has
 138 not commenced receiving any benefits under this chapter, the designated beneficiary of
 139 such deceased member shall be entitled to be paid the amount of \$5,000.00, upon making
 140 proper application to the ~~secretary-treasurer~~ executive director of the fund. Such
 141 application shall be accompanied by a certified copy of the death certificate of the deceased
 142 member and such other information as may be required by the board.

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

150 **SECTION 9.**

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

154 "47-7-104.

155 Any other provisions of law to the contrary notwithstanding:

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

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

167 regardless of the fact that such service was not rendered in a class ~~eight~~ nine or better fire
168 department."

169 **SECTION 10.**

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

173 "(a) No claim shall be made against the fund for benefits or the return of contributions after
174 the lapse of seven years from the date on which the ~~secretary-treasurer~~ executive director
175 of the fund shall have mailed by first-class mail to the last known address of the firefighter
176 or volunteer firefighter or other person eligible therefor, as such address is reflected by the
177 records of the fund, a written notice that the firefighter or volunteer firefighter or other
178 eligible person is or may be eligible for such benefits or return of contributions; and, in the
179 event any claim for benefits or the return of contributions is barred in accordance with this
180 subsection, the amounts thereof shall be the property of the Georgia Firefighters' Pension
181 Fund. The bar period prescribed by this subsection shall not begin to run with respect to
182 a firefighter or volunteer firefighter on leave of absence who has elected to leave his or her
183 contributions in the fund until the failure of the firefighter or volunteer firefighter to
184 provide written confirmation of his or her election to remain on leave of absence within 60
185 days of a not more frequent than biennial request for such confirmation mailed to the last
186 known address of such firefighter or volunteer firefighter, as such address is reflected by
187 the records of the fund."

188 **SECTION 11.**

189 Said title is further amended by revising subsection (a) of Code Section 47-7-126, relating
190 to penalty for false statements or falsified records and correction of errors by the board, as
191 follows:

192 "(a) Any person who knowingly makes any false statements or falsifies or permits to be
193 falsified any records of the fund in an attempt to defraud the fund shall be guilty of a
194 ~~misdemeanor~~ felony and, upon conviction thereof, shall be punished by a fine not to exceed
195 ~~\$500.00~~ \$5,000.00, imprisonment for up to ~~12 months~~ five years, or both."

196 **SECTION 12.**

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

199

SECTION 13.

200 This Act shall become effective on July 1, 2010, only if it is determined to have been
201 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
202 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
203 become effective and shall be automatically repealed in its entirety on July 1, 2010, as
204 required by subsection (a) of Code Section 47-20-50.

205

SECTION 14.

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