

House Bill 740

By: Representative Smith of the 113th

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 provide that an election to participate in the Regents Retirement Plan in
3 lieu of the Teachers Retirement System of Georgia shall be revocable at will; to provide that
4 persons who elected such participation may elect to participate in the Teachers Retirement
5 System of Georgia; to provide for creditable service; to provide for application and transfer
6 of funds; to provide conditions for an effective date and automatic repeal; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

10 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
11 amended by revising Code Section 47-3-68, relating to membership of eligible university
12 system employees in the Teachers Retirement System of Georgia, as follows:

13 "47-3-68.

14 (a)(1) The provisions of this paragraph shall apply to persons employed prior to July 1,
15 2008. As used in this Code section, the term 'eligible university system employee' means
16 faculty and principal administrators employed by the University System of Georgia, as
17 designated by regulations of the Board of Regents of the University System of Georgia,
18 who are:

19 (A) Employed on or after July 1, 1990, and are eligible for membership in the
20 retirement system provided for in this chapter as of the date of employment; or

21 (B) Members of the retirement system provided for in this chapter on July 1, 1990,
22 with less than ten years of creditable service on that date.

23 (2) The provisions of this paragraph shall apply to persons first or again employed on or
24 after July 1, 2008. As used in this Code section, the term 'eligible university system
25 employee' means faculty members or exempt employees within the meaning of the
26 federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Section 201, et seq.,

27 who are eligible for membership in the retirement system provided for in this chapter as
28 of the date of such employment.

29 (b) Any other provisions of this chapter to the contrary notwithstanding, any eligible
30 university system employee may withdraw from or decline membership in the retirement
31 system provided for in this chapter and participate in the optional retirement plan provided
32 for in Chapter 21 of this title as provided in this Code section.

33 (c) Members of the retirement system provided for in this chapter who were eligible
34 university system employees on July 1, 1990, shall have the option to withdraw from this
35 retirement system and participate in the optional retirement plan provided for in Chapter
36 21 of this title. Members exercising said option, which shall be ~~irrevocable~~ revocable as
37 provided in subsection (g) of this Code section, shall forfeit all rights under this retirement
38 system except that they shall have the right to have their accumulated contributions under
39 this retirement system transferred to the optional retirement plan. Upon such election's
40 becoming effective, the board of trustees shall transfer the member's accumulated
41 contributions directly to the optional retirement plan to purchase benefits thereunder and
42 the funds so transferred will not be made available to the member except as a participant
43 in the optional retirement plan. The option provided for in this Code section shall be
44 exercised by filing a written notification thereof with the board of trustees and with the
45 employer by not later than July 31, 1991. The effective date of the option and transfer for
46 each member who elects to become a new participant in the optional retirement plan shall
47 be August 1, 1991. The failure to exercise the option by July 31, 1991, shall be an
48 ~~irrevocable~~ election to remain a member of this retirement system. Such decision shall be
49 revocable as provided in subsection (g) of this Code section.

50 (d) Eligible university system employees employed on or after July 1, 1990, shall, within
51 30 days immediately following the effective date of their employment, make an ~~irrevocable~~
52 a decision to be a member of this retirement system or participate in the optional retirement
53 plan provided for in Chapter 21 of this title; provided, however, that such employees
54 employed on or after July 1, 1995, shall make such ~~irrevocable~~ decision within 60 days
55 immediately following the effective date of their employment. Such decision shall be
56 revocable as provided in subsection (g) of this Code section. A written statement of the
57 decision shall be filed with the employer and with the board of trustees and shall be
58 effective from the date of employment. If an eligible university system employee fails to
59 file a statement of decision provided for in this subsection, such failure shall be an
60 ~~irrevocable~~ a revocable election to become a member of the retirement system provided for
61 in this chapter.

62 (e) Any former member of this retirement system who is presently a participant in the
63 optional retirement plan provided for in Chapter 21 of this title shall have the right to have

64 the former member's accumulated contributions to this retirement system transferred to said
65 optional retirement plan. Such right shall be exercised by filing a written notification
66 thereof with the board of trustees by not later than July 31, 1991. After receiving such
67 notification, the board of trustees shall, by not later than October 1, 1991, transfer the
68 former member's accumulated contributions directly to the optional retirement plan to
69 purchase benefits thereunder and the funds so transferred will not be made available to the
70 former member except as a participant in the optional retirement plan.

71 (f) Any member of this retirement system who was employed on July 1, 2004, as an
72 assistant coach by the athletic department of a state university may make ~~an irrevocable a~~
73 decision to participate in the optional retirement plan provided by Chapter 21 of this title.
74 Such decision shall be revocable as provided in subsection (g) of this Code section. Such
75 election shall be made to the employer and the board of trustees not later than August 31,
76 2004. The board of trustees shall transfer to such member's account in such optional
77 retirement plan all employer and employee contributions made by or on behalf of such
78 member together with regular interest thereon.

79 (g)(1) Any eligible university system employee who elected to decline membership in
80 this retirement system and participate in the regents retirement plan created by Chapter
81 21 of this title may revoke such election and become or again become a member of this
82 retirement system as provided in this subsection.

83 (2) Any person desiring to revoke his or her participation in the regents retirement plan
84 as provided in paragraph (1) of this subsection shall notify the board of trustees of this
85 retirement system in such manner as the board deems appropriate, and such person shall
86 become an active member of this retirement system on the first day of the month
87 following the month in which such notification is received by the board.

88 (3) Any person who becomes a member of this retirement system pursuant to paragraph
89 (2) of this subsection may obtain creditable service for prior service while he or she was
90 participating in the regents retirement plan. Such person may also obtain creditable
91 service for prior service previously credited under this retirement system but which was
92 withdrawn at the time the election to participate in the regents retirement plan was made.
93 The member may obtain credit for all or any portion of such prior service. In order to
94 obtain such creditable service, the member shall pay to the board of trustees such sum as
95 the member desires. Such payment may be made by instrument or by a direct rollover
96 from another eligible retirement plan including, without limitation, the regents retirement
97 plan, but only if such rollover is authorized by the federal Internal Revenue Code. Upon
98 receipt of such funds, the board of trustees shall credit the member with only so much
99 creditable service as such amount will warrant without creating any actuarial accrued

100 unfunded liability as to this retirement system, up to the actual number of years of eligible
101 prior service.

102 (4) Any person desiring to exercise the election provided in this subsection shall submit
103 his or her application, together with any sums he or she desires to pay or transfer to this
104 retirement system pursuant to paragraph (3) of this subsection, as follows:

105 (A) For any person who is in employment on July 1, 2010, not later than June 30,
106 2011; and

107 (B) For any person who first or again becomes employed after July 1, 2010, any time
108 during the sixth year of his or her election to participate in the regents retirement plan."

109 **SECTION 2.**

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

115 **SECTION 3.**

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