

House Bill 849

By: Representative Mitchell of the 88th

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 any full-time public school employee may elect to become a
3 member of the Teachers Retirement System of Georgia; to define certain terms; to provide
4 for employee and employer contributions; to provide for matters relative to the foregoing;
5 to provide conditions for an effective date and automatic repeal; to repeal conflicting laws;
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
10 amended by revising subparagraph (E) of paragraph (28) of Code Section 47-3-1, relating
11 to definitions relative to the Teachers Retirement System of Georgia, as follows:

12 "(E) Full-time public school ~~lunchroom managers or supervisors, full-time public school~~
13 ~~maintenance managers or supervisors, full-time public school transportation managers or~~
14 ~~supervisors, and full-time public school warehouse managers or supervisors~~ employees, as
15 such term is defined in paragraph (20) of Code Section 47-4-2, upon electing to participate
16 in the retirement system pursuant to Code Section 47-3-63;"

17 **SECTION 2.**

18 Said title is further amended by revising Code Section 47-3-63, relating to membership in
19 the Teachers Retirement System of Georgia by certain public school employees, as follows:
20 "47-3-63.

21 (a) In accordance with Code Section 47-4-40, ~~full-time public school lunchroom,~~
22 ~~maintenance, or warehouse managers or supervisors or full-time public school~~
23 ~~transportation managers or supervisors including those employed by postsecondary~~
24 ~~vocational-technical schools governed by the Technical College System of Georgia~~ any
25 full-time public school employee may elect to become ~~members~~ a member of the Teachers

26 Retirement System of Georgia. Any such personnel exercising such option shall begin
27 making the employee contributions required by this chapter.

28 (b) The provisions of this subsection shall apply only to members who became members
29 of this retirement system prior to July 1, 2010. Members (1) who were previously eligible
30 for membership in the Public School Employees Retirement System and whose duties were
31 or have been changed in such a manner so as to have made them eligible for membership
32 in the Teachers Retirement System of Georgia and (2) any personnel specified in
33 subsection (a) of this Code section who elect to become members of ~~the Teachers~~
34 ~~Retirement System of Georgia~~ this retirement system shall be permitted to establish credit
35 for service rendered in a public school system prior to the date such employees become or
36 became members of the Teachers Retirement System of Georgia, provided that such
37 service would be or would have been normally allowable as creditable service under the
38 Public School Employees Retirement System; provided, further, that such members must
39 pay the employee contributions on the salary earned by such members during the years of
40 service sought to be so established, plus applicable accrued regular interest compounded
41 annually to the dates of payment at the rates adopted by the board of trustees. Such
42 members or the local boards of education by which the members are employed at the time
43 the service is established shall pay the employer contributions on the earnable
44 compensation of such members that would have been paid to the Teachers Retirement
45 System of Georgia, plus applicable accrued regular interest compounded annually to the
46 dates of payment at the rates adopted by the board of trustees.

47 (c) The State of Georgia shall be the employer of personnel specified in subsection (a) of
48 this Code section for the purposes of employer contributions on membership service
49 rendered by such members after they become members of the Teachers Retirement System
50 of Georgia; ~~provided, however, that a local school system shall pay the employer~~
51 ~~contributions for the number of its managers or supervisors in each category of~~
52 ~~employment set forth in subsection (a) of this Code section who are members of this~~
53 ~~retirement system pursuant to this Code section which exceeds one person or 7 percent,~~
54 ~~whichever is greater, of the total number of employees of such local school system in such~~
55 ~~category; provided, further, that the state shall continue to pay employer contributions for~~
56 ~~all members who became members of this system pursuant to this Code section prior to~~
57 ~~April 1, 1992."~~

58 SECTION 3.

59 Said title is further amended by revising subsection (m) of Code Section 47-3-67, relating
60 to membership of teachers who are employed by independent school systems, creditable

61 service, employee and employer contributions, and the effect of failure to pay required
62 contributions, as follows:

63 "~~(m) Any full-time public school lunchroom managers or supervisors, full-time public~~
64 ~~school maintenance managers or supervisors, full-time public school transportation~~
65 ~~managers or supervisors, or full-time public school warehouse managers or supervisors~~
66 employees who become members of this retirement system pursuant to the provisions of
67 this Code section or Code Section 47-3-66 prior to July 1, 2010, shall have the right to
68 obtain creditable service under this retirement system pursuant to the provisions of
69 subsection (b) of Code Section 47-3-63 on the same basis that other members of this
70 retirement system who are subject to the provisions of Code Section 47-3-63 obtain
71 creditable service."

72 **SECTION 4.**

73 Said title is further amended by revising Code Section 47-4-40, relating to eligibility, leaves
74 of absence, termination, and transfer of service credits, as follows:

75 "47-4-40.

76 (a) Any person who is a public school employee on January 1, 1970, shall be a member
77 of the retirement system as a condition of his or her continued employment; except as
78 otherwise provided in this Code section. Any person who becomes a public school
79 employee on or after January 1, 1970, shall become a member of the retirement system as
80 a condition of his or her employment. This subsection shall become a part of any contract
81 of employment of public school employees which is executed on or after January 1, 1970,
82 but nothing in this Code section shall be construed to impair the obligation of any such
83 contract executed prior to January 1, 1970.

84 (b) An otherwise eligible public school employee shall be classified as a member only
85 while he or she is employed by a local unit of administration which is not operating a local
86 retirement system, except as otherwise provided in Code Section 47-4-41.

87 (c) The membership of any member shall terminate if he or she retires under this
88 retirement system or withdraws his or her contributions. Any member who has not
89 withdrawn his or her contributions to the retirement system may retain his or her
90 membership while on any leave of absence which is authorized by rules and regulations of
91 the board. The board may continue the membership of a member while in the armed forces
92 of the United States or other emergency wartime service of the United States, which service
93 has been approved in advance by the board, or if he or she ceases to be a contributing
94 member by reason of illness. No benefit under the retirement system other than the
95 payment of the employee's accumulated contributions shall become payable to him or her

96 or on his or her account while he or she is not in service as a public school employee and
 97 no employer contributions shall be made to the retirement system during any such time.

98 (d) ~~Full-time public school lunchroom, maintenance, or warehouse managers or~~
 99 ~~supervisors, or full-time public school transportation managers or supervisors including~~
 100 ~~those employed by postsecondary vocational-technical schools governed by the Technical~~
 101 ~~College System of Georgia~~ employees shall have the option of becoming members of the
 102 Teachers Retirement System of Georgia, in accordance with Code Section 47-3-63. Any
 103 ~~of such personnel~~ person who ~~have heretofore exercised~~ exercises said option ~~or who~~
 104 ~~hereafter exercise said option~~ who ~~have or had~~ has ten or more years of creditable service
 105 under this chapter may withdraw ~~their~~ his or her accumulated contributions from the fund,
 106 and upon withdrawing such contributions such ~~personnel~~ person shall cease to be ~~members~~
 107 a member of the retirement system. Said ~~personnel~~ person may elect to allow ~~their~~ his or
 108 her accumulated contributions to remain in the fund; and ~~such personnel shall~~ retain the
 109 vested rights established by Code Section 47-4-100. Upon exercising such option, however,
 110 any such ~~personnel~~ person shall cease making contributions to the retirement system, and
 111 no additional creditable service shall be allowed under the retirement system. Any such
 112 person who elects such option and who has less than ten years of creditable service under
 113 this chapter shall withdraw ~~the person's~~ his or her accumulated contributions from the fund
 114 and, upon exercising such option, ~~such personnel~~ shall cease to be ~~members~~ a member of
 115 the retirement system. Any person subject to this subsection who becomes employed on
 116 or after ~~November 1, 1982~~ July 1, 2010, shall have the option, which must be exercised
 117 within ~~30~~ 90 days after becoming employed, of becoming a member of this retirement
 118 system or of becoming a member of the Teachers Retirement System of Georgia, ~~provided~~
 119 ~~that any such person who becomes employed by a postsecondary vocational-technical~~
 120 ~~school governed by the Technical College System of Georgia after July 1, 1987, shall~~
 121 ~~exercise such option within one day after becoming so employed.~~ No such person shall be
 122 ~~a~~ an active member of both such retirement systems under any circumstances. Such option
 123 shall be exercised by notification, in writing, to the respective boards of trustees of such
 124 retirement systems. It shall be the duty and responsibility of local units of administration
 125 and postsecondary vocational-technical schools governed by the Technical College System
 126 of Georgia to notify their respective employees and persons who become employed in the
 127 future and who are subject to this subsection of the options provided for in this subsection
 128 and to furnish such employees appropriate forms for the exercise of such options.

129 (e) Lunchroom, maintenance, warehouse, or transportation workers employed by
 130 postsecondary vocational-technical schools governed by the Technical College System of
 131 Georgia, who are otherwise eligible under laws, rules, or regulations, shall have the option
 132 of becoming members of the Employees' Retirement System of Georgia, in accordance

133 with Code Sections 20-4-25, 20-4-26, 47-2-1, and 47-2-190. Any of such ~~personnel~~ person
 134 who ~~have~~ has heretofore exercised said option or who hereafter ~~exercise~~ exercises said
 135 option who ~~have~~ has or had ten or more years of creditable service under this chapter may
 136 withdraw ~~their~~ his or her accumulated contributions from the fund, and upon withdrawing
 137 such contributions ~~such personnel~~ shall cease to be ~~members~~ a member of the retirement
 138 system. Said ~~personnel~~ person may elect to allow ~~their~~ his or her accumulated contributions
 139 to remain in the fund; and ~~such personnel~~ shall retain the vested rights established by Code
 140 Section 47-4-100. Upon exercising such option, however, any such ~~personnel~~ person shall
 141 cease making contributions to the retirement system, and no additional creditable service
 142 shall be allowed under the retirement system. Any such person who elects such option and
 143 who has less than ten years of creditable service under this chapter shall withdraw ~~the~~
 144 ~~person's~~ his or her accumulated contributions from the fund and, upon exercising such
 145 option, such person shall cease to be a member of the retirement system. Any person
 146 subject to this subsection who becomes employed on or after July 1, 1987, shall have the
 147 option, which must be exercised within ~~one day~~ 90 days after becoming employed, of
 148 becoming a member of this retirement system or of becoming a member of the Employees'
 149 Retirement System of Georgia. No such person shall be a an active member of both such
 150 retirement systems under any circumstances. Such option shall be exercised by notification,
 151 in writing, to the respective boards of trustees of such retirement systems. It shall be the
 152 duty and responsibility of postsecondary vocational-technical schools governed by the
 153 Technical College System of Georgia to notify their respective employees and persons who
 154 become employed in the future and who are subject to this subsection of the options
 155 provided for in this subsection and to furnish such employees appropriate forms for the
 156 exercise of such options."

157 **SECTION 5.**

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

163 **SECTION 6.**

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