

House Bill 1150

By: Representatives Weldon of the 3rd, Maxwell of the 17th, Benton of the 31st, Bryant of the 160th, Gordon of the 162nd, 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 make certain editorial corrections; to increase the penalty for making false statements or
4 falsifying documents; to provide for related matters; to repeal Chapter 7A of said title,
5 relating to the Georgia Class Nine Fire Department Pension Fund; to repeal conflicting laws;
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

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

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

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

27 functions which standards are maintained on file with the Commissioner of Insurance
28 and which have not been disapproved by the Commissioner.

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

33 SECTION 2.

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

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

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

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

50 SECTION 3.

51 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
52 47-7-61, relating to tax on premiums charged by fire insurance companies for certain classes
53 of coverage, exclusions, and penalty for failure to report and pay such tax, as follows:

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

60

SECTION 4.

61 Said title is further amended by revising paragraph (2) of subsection (e) of Code Section
62 47-7-61, relating to tax on premiums charged by fire insurance companies for certain classes
63 of coverage, exclusions, and penalty for failure to report and pay such tax, as follows:

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

74

SECTION 5.

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

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

86

SECTION 6.

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

91 "(a) In the event of the death of a member of the fund who is in good standing and who has
92 not commenced receiving any benefits under this chapter, the designated beneficiary of
93 such deceased member shall be entitled to be paid the amount of \$5,000.00, upon making
94 proper application to the ~~secretary-treasurer~~ executive director of the fund. Such

95 application shall be accompanied by a certified copy of the death certificate of the deceased
 96 member and such other information as may be required by the board.
 97 (b) In the event of the death of a member of the fund who is in good standing, who has not
 98 elected survivor benefits under Option A or B as provided for in subsection (d) of Code
 99 Section 47-7-100, and who has commenced receiving benefits under this chapter, but who
 100 has not received total benefits in an amount equal to \$5,000.00, the member's named
 101 beneficiary shall be entitled to receive the difference between \$5,000.00 and the amount
 102 of benefits received by such deceased member, upon making application as provided for
 103 in subsection (a) of this Code section."

104 SECTION 7.

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

107 "47-7-104.

108 Any other provisions of law to the contrary notwithstanding:

109 (1) Any person who served as a volunteer firefighter prior to March 3, 1955, and who
 110 began receiving retirement benefits at a later date from the fund, based on the board of
 111 trustees' belief that such person was eligible for such benefits, but whose retirement
 112 benefits were ceased or canceled by the board of trustees based upon its subsequent
 113 realization that such person was not in fact eligible for such benefits; or
 114 (2) Any person who left service as a volunteer firefighter after receiving written notice
 115 from the ~~secretary-treasurer~~ executive director of the fund that he such person was
 116 eligible for retirement benefits except for not having reached the age of 60 years, which
 117 written notice was later determined by the board to be erroneous,
 118 shall be eligible to receive the retirement benefits under this chapter in the same manner
 119 as if such service had been rendered in a class ~~eight~~ nine or better fire department,
 120 regardless of the fact that such service was not rendered in a class ~~eight~~ nine or better fire
 121 department."

122 SECTION 8.

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

126 "(a) No claim shall be made against the fund for benefits or the return of contributions after
 127 the lapse of seven years from the date on which the ~~secretary-treasurer~~ executive director
 128 of the fund shall have mailed by first-class mail to the last known address of the firefighter
 129 or volunteer firefighter or other person eligible therefor, as such address is reflected by the

130 records of the fund, a written notice that the firefighter or volunteer firefighter or other
 131 eligible person is or may be eligible for such benefits or return of contributions; and, in the
 132 event any claim for benefits or the return of contributions is barred in accordance with this
 133 subsection, the amounts thereof shall be the property of the Georgia Firefighters' Pension
 134 Fund. The bar period prescribed by this subsection shall not begin to run with respect to
 135 a firefighter or volunteer firefighter on leave of absence who has elected to leave his or her
 136 contributions in the fund until the failure of the firefighter or volunteer firefighter to
 137 provide written confirmation of his or her election to remain on leave of absence within 60
 138 days of a not more frequent than biennial request for such confirmation mailed to the last
 139 known address of such firefighter or volunteer firefighter, as such address is reflected by
 140 the records of the fund."

141 **SECTION 9.**

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

145 "(a) Any person who knowingly makes any false statements or falsifies or permits to be
 146 falsified any records of the fund in an attempt to defraud the fund shall be guilty of a
 147 ~~misdemeanor~~ felony and, upon conviction thereof, shall be punished by a fine not to exceed
 148 ~~\$500.00~~ \$5,000.00, imprisonment for up to ~~12 months~~ five years, or both."

149 **SECTION 10.**

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

152 **SECTION 11.**

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