

## House Bill 183

By: Representatives Maxwell of the 17<sup>th</sup>, Meadows of the 5<sup>th</sup>, Benton of the 31<sup>st</sup>, Greene of the 149<sup>th</sup>, Buckner of the 130<sup>th</sup>, 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 provide that all persons who become members of the General Assembly  
3 on or after July 1, 2012, shall become members of the Georgia Legislative Retirement  
4 System; to provide that persons who are members of the General Assembly on July 1, 2012,  
5 but who are not members of the retirement system may elect membership; to provide for  
6 creditable service and the payment of the full actuarial value; to repeal certain obsolete  
7 provisions relative to membership by certain staff members; to provide for notification of  
8 return to service; to provide conditions for an effective date and automatic repeal; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is  
13 amended by revising Code Section 47-1-9, relating to crediting of time toward the Georgia  
14 Legislative Retirement System, restriction on crediting, options for members, refund of  
15 contributions, and construction of conflicting provisions, as follows:

16 "47-1-9.

17 ~~(a) Except as provided by subsection (b) of this Code section, any member of the General~~  
18 ~~Assembly holding office on January 1, 1986, may obtain creditable service for membership~~  
19 ~~in the General Assembly obtained on and after that date only for the purposes of the~~  
20 ~~Georgia Legislative Retirement System, and no service as a member of the General~~  
21 ~~Assembly which is obtained after December 31, 1985, by any such member shall be~~  
22 ~~creditable or used as creditable service for the purposes of any other public retirement or~~  
23 ~~pension system of this state.~~

24 ~~(b)(1) Subject to the limitations of paragraph (2) of this subsection, the provisions of~~  
25 ~~subsection (a) of this Code section shall not apply to any member of the General~~  
26 ~~Assembly holding office on January 1, 1986, who:~~

27 ~~(A) Was a member of the Employees' Retirement System of Georgia on that date; and~~  
 28 ~~(B) Received annual compensation as a member and officer of the General Assembly~~  
 29 ~~during calendar year 1985, on which employee contributions to the Employees'~~  
 30 ~~Retirement System of Georgia were based, exceeding the average annual compensation~~  
 31 ~~of all members of the Employees' Retirement System of Georgia for calendar year~~  
 32 ~~1985.~~

33 ~~(2) Any member of the General Assembly subject to the provisions of paragraph (1) of~~  
 34 ~~this subsection who continues to receive annual compensation on and after January 1,~~  
 35 ~~1986, as a member and officer of the General Assembly exceeding the average annual~~  
 36 ~~compensation of all members of the Employees' Retirement System of Georgia may~~  
 37 ~~continue membership in said retirement system.~~

38 ~~(c) Any person becoming a member of the General Assembly after December 31, 1985,~~  
 39 ~~shall be eligible to obtain creditable service as a member of the General Assembly only for~~  
 40 ~~the purposes of the Georgia Legislative Retirement System, and no service as a member~~  
 41 ~~of the General Assembly which is obtained on or after January 1, 1986, by any such person~~  
 42 ~~shall be creditable or used as creditable service for the purposes of any other public~~  
 43 ~~retirement or pension system of this state.~~

44 ~~(d) Notwithstanding any provisions of Chapter 6 of this title or any other law, any member~~  
 45 ~~of the General Assembly may withdraw from membership in the Georgia Legislative~~  
 46 ~~Retirement System and receive a refund of contributions to such system under Code~~  
 47 ~~Section 47-6-85. Any member exercising the option provided by this subsection may not~~  
 48 ~~at any time thereafter reestablish membership in the Georgia Legislative Retirement~~  
 49 ~~System or become a member of any public retirement or pension system while serving as~~  
 50 ~~a member of the General Assembly.~~

51 ~~(e) The provisions of this Code section shall control over conflicting or inconsistent~~  
 52 ~~provisions of any other law of this state, specifically including any law relating to any~~  
 53 ~~public retirement or pension system of this state. It is the intention of the General~~  
 54 ~~Assembly that this Code section may not be repealed, superseded, or modified by~~  
 55 ~~implication through the enactment of any other law or through the amendment of any~~  
 56 ~~existing law, and any modification or repeal of the requirements of this Code section shall~~  
 57 ~~be accomplished only by amendment to or repeal of this specific Code section. Reserved."~~

## 58 SECTION 2.

59 Said title is further amended by revising Code Section 47-6-1, relating to definitions relative  
 60 to the Georgia Legislative Retirement System, as follows:

61 "47-6-1.

62 As used in this chapter, the term:

- 63 (1) 'Accumulated contributions' means the sum of all amounts deducted from the  
64 compensation of a member or paid by the member to establish or reestablish credit for  
65 service, which amounts are credited to his or her individual account in the system,  
66 together with regular interest thereon. Beginning on January 12, 1981, this term shall  
67 include the amount of employee contributions paid by the employer on behalf of  
68 members, together with regular interest thereon, excluding employee contributions paid  
69 by the employer for group term life insurance coverage.
- 70 (2) 'Beneficiary' means any person in receipt of a retirement allowance or other benefit  
71 as provided by the system.
- 72 (3) 'Board' means the Board of Trustees of the Employees' Retirement System of  
73 Georgia; provided, however, that if any member of such board of trustees is an active or  
74 retired member or a beneficiary of this retirement system, he or she shall not serve as a  
75 member of the board of trustees of this retirement system.
- 76 (4) 'Creditable service' means prior service and membership service for which credit is  
77 allowable under this chapter, but in no case shall more than one year of service be  
78 creditable for all service in one calendar year, nor shall it include any service which has  
79 been or may be credited to a member by any other public retirement system of this state.
- 80 (5) 'Date of establishment' means July 1, 1967.
- 81 (6) 'Member' means any person included in the membership of the system.
- 82 (7) 'Membership service' means service as paid for by the member, as provided for in  
83 Code Section 47-6-60.
- 84 (8) 'Prior service' means service rendered prior to January 1, 1954, as a Representative,  
85 Senator, or staff member of the General Assembly and service, day for day, on active  
86 duty in any component of the armed forces of the United States during wartime or during  
87 any conflict in which military personnel were committed by the President of the United  
88 States, provided that no such service in excess of five years shall be creditable.
- 89 (8.1) 'Prior service' shall also include military service which is creditable under Code  
90 Section 47-6-70.1.
- 91 (9) 'Retirement allowance' means monthly payments for life pursuant to Code Section  
92 47-6-80.
- 93 ~~(10) 'Staff members' means the Secretary of the Senate, the Clerk of the House of~~  
94 ~~Representatives, and the messenger and doorkeeper for each of the two houses of the~~  
95 ~~General Assembly.~~
- 96 (H) 'System' means the Georgia Legislative Retirement System."

97

**SECTION 3.**

98 Said title is further amended by revising Code Section 47-6-40, relating to qualifications for  
 99 membership in the Georgia Legislative Retirement System, membership of persons who  
 100 cease to become members of the General Assembly before age 60, and termination of  
 101 membership, as follows:

102 "47-6-40.

103 (a) ~~All persons who are members of the General Assembly on July 1, 1967, shall become~~  
 104 ~~members of the system as of such date, except that within six months from such date any~~  
 105 ~~such person may irrevocably elect not to be a member of the system. All other persons~~  
 106 ~~shall become members of the system on taking office as members of the General~~  
 107 ~~Assembly. Staff members shall have the option to become members of the system under~~  
 108 ~~the same conditions as elected members of the General Assembly. Each person who first~~  
 109 or again becomes a member of the General Assembly on or after July 1, 2012, shall  
 110 become a member of the Georgia Legislative Retirement System upon taking office as a  
 111 member of the General Assembly and shall remain a member of said retirement system as  
 112 long as he or she remains a member of the General Assembly.

113 (b) If a member of the system ceases to be a member of the General Assembly before  
 114 attaining age 60 and for reasons other than death, such member, unless he or she withdraws  
 115 his or her contributions pursuant to Code Section 47-6-85, shall continue as a  
 116 noncontributing member of the system. Any such noncontributing member shall not gain  
 117 any additional membership service. If he or she again becomes a member of the General  
 118 Assembly and a contributing member of the system, such member shall retain the  
 119 membership service previously credited to him or her. If a member subject to this  
 120 subsection withdraws his or her contributions upon ceasing to be a member of the General  
 121 Assembly, any membership service credited to him or her at the time such contributions  
 122 are withdrawn shall be forfeited and may not be reestablished if he or she again becomes  
 123 a member of the General Assembly.

124 (c) Should any member of the system in any period of five consecutive years after  
 125 becoming a member be absent from service more than four years, withdraw his or her  
 126 contributions or become a beneficiary of such system, or die, he or she shall thereupon  
 127 cease to be a member.

128 (d) A member of General Assembly serving on July 1, 2012, who is not a member of any  
 129 public retirement system created by this title may make an irrevocable election to become  
 130 a member of this retirement system and may obtain creditable service for prior service as  
 131 a member of the General Assembly as provided in this Code section. In order to obtain  
 132 such additional creditable service, the member must:

133 (1) Make application to the board of trustees in such manner as the board deems  
 134 appropriate not later than December 31, 2012. Such application and payment must be  
 135 made in conjunction with and simultaneously with the member's application for  
 136 membership; and

137 (2) Pay to the board of trustees an amount determined by the board of trustees to be  
 138 sufficient to cover the full actuarial cost of granting the creditable service as provided in  
 139 this Code section;

140 provided, however, that no creditable service shall be granted or obtained pursuant to this  
 141 Code section if such service may be used to calculate creditable service under any other  
 142 public retirement system created by this title.

143 (e) A member of the General Assembly may obtain creditable service for membership in  
 144 the General Assembly only for the purposes of the Georgia Legislative Retirement System,  
 145 and no service as a member of the General Assembly which is obtained after December 31,  
 146 1985, by any such member shall be creditable or used as creditable service for the purposes  
 147 of any other public retirement or pension system of this state."

148 **SECTION 4.**

149 Said title is further amended by revising Code Section 47-6-84, relating to termination of  
 150 retirement allowance upon return to service and retirement benefits for retired members  
 151 returning to service in the General Assembly, by adding a new subsection to read as follows:

152 "(c)(1) As used in this subsection, the term 'public employer' means any branch of state  
 153 government and any state agency, department, board, bureau, or other instrumentality.  
 154 This term also includes the Board of Regents of the University System of Georgia and  
 155 any public school system, including, but not limited to, primary, secondary, and  
 156 postsecondary institutions operated by local or independent boards of education that  
 157 receive any funds from the State of Georgia or any agency thereof.

158 (2) Any public employer that employs a retired plan member shall within 30 days of the  
 159 employee's accepting employment notify the board of trustees in writing stating the name  
 160 of the plan member and the number of hours the employee is expected to work annually  
 161 and shall provide such other information as the board may request. Any employer that  
 162 fails to notify the board of trustees as required by this subsection shall reimburse the  
 163 retirement system for any benefits wrongfully paid. It shall be the duty of the retired plan  
 164 member seeking employment by the employer to notify the employer of his or her  
 165 retirement status prior to accepting such position. If a retired plan member fails to so  
 166 notify the employer and the employer becomes liable to the retirement system, the plan  
 167 member shall hold the employer harmless for all such liability."

168

**SECTION 5.**

169 This Act shall become effective on July 1, 2012, only if it is determined to have been  
170 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia  
171 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not  
172 become effective and shall be automatically repealed in its entirety on July 1, 2012, as  
173 required by subsection (a) of Code Section 47-20-50.

174

**SECTION 6.**

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