

Senate Bill 287

By: Senators Ginn of the 47th, Cowser of the 46th and Butterworth of the 50th

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 made an irrevocable election for such participation may nonetheless elect to
5 participate in the Teachers Retirement System of Georgia; to provide for creditable service;
6 to provide for application and transfer of funds; to provide conditions for an effective date
7 and automatic repeal; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 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 except for the
37 revocation provided in subsection (g) of this Code section, shall forfeit all rights under this
38 retirement system except that they shall have the right to have their accumulated
39 contributions under this retirement system transferred to the optional retirement plan.
40 Upon such election's becoming effective, the board of trustees shall transfer the member's
41 accumulated contributions directly to the optional retirement plan to purchase benefits
42 thereunder and the funds so transferred will not be made available to the member except
43 as a participant in the optional retirement plan. The option provided for in this Code
44 section shall be exercised by filing a written notification thereof with the board of trustees
45 and with the employer by not later than July 31, 1991. The effective date of the option and
46 transfer for each member who elects to become a new participant in the optional retirement
47 plan shall be August 1, 1991. The failure to exercise the option by July 31, 1991, shall be
48 an irrevocable election to remain a member of this retirement system; provided, however,
49 that such irrevocable decision may revoked as provided in subsection (g) of this Code
50 section.

51 (d) Eligible university system employees employed on or after July 1, 1990, shall, within
52 30 days immediately following the effective date of their employment, make an irrevocable
53 decision to be a member of this retirement system or participate in the optional retirement
54 plan provided for in Chapter 21 of this title; provided, however, that such employees
55 employed on or after July 1, 1995, shall make such irrevocable decision within 60 days
56 immediately following the effective date of their employment; provided, however, that
57 such irrevocable decision may revoked as provided in subsection (g) of this Code section.

58 A written statement of the decision shall be filed with the employer and with the board of
59 trustees and shall be effective from the date of employment. If an eligible university
60 system employee fails to file a statement of decision provided for in this subsection, such
61 failure shall be an irrevocable election to become a member of the retirement system
62 provided for in this chapter; provided, however, that such irrevocable decision may be
63 revoked as provided in subsection (g) of this Code section.

64 (e) Any former member of this retirement system who is presently a participant in the
65 optional retirement plan provided for in Chapter 21 of this title shall have the right to have
66 the former member's accumulated contributions to this retirement system transferred to said
67 optional retirement plan. Such right shall be exercised by filing a written notification
68 thereof with the board of trustees by not later than July 31, 1991. After receiving such
69 notification, the board of trustees shall, by not later than October 1, 1991, transfer the
70 former member's accumulated contributions directly to the optional retirement plan to
71 purchase benefits thereunder and the funds so transferred will not be made available to the
72 former member except as a participant in the optional retirement plan.

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

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

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

90 (3) Any person who becomes a member of this retirement system pursuant to paragraph
91 (2) of this subsection may obtain creditable service for prior service while he or she was
92 participating in the regents retirement plan; provided, however, that such creditable
93 service must be obtained in a one-time application and upon payment of the full amount
94 owing in one payment. The member may obtain credit for all or any portion of such prior
95 service. In order to obtain such creditable service, the member shall pay to the board of
96 trustees such sum as the member desires. Such payment may be made by instrument or
97 by a direct rollover from another eligible retirement plan including, without limitation,
98 the regents retirement plan, but only if such rollover is authorized by the federal Internal
99 Revenue Code. Upon receipt of such funds, the board of trustees shall credit the member
100 with only so much creditable service as such amount will warrant without creating any

101 actuarial accrued unfunded liability as to this retirement system, up to the actual number
102 of years of eligible prior service as calculated by the board of trustees.

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

106 (A) For any person who is in employment on July 1, 2012, not later than December 31,
107 2012; and

108 (B) For any person who first or again becomes employed after July 1, 2012, any time
109 during the sixth year of his or her employment as an eligible university system
110 employee."

111 **SECTION 2.**

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

117 **SECTION 3.**

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