

House Bill 380

By: Representatives Riley of the 50<sup>th</sup>, Jones of the 47<sup>th</sup>, Geisinger of the 48<sup>th</sup>, Wilkinson of the 52<sup>nd</sup>, Dudgeon of the 25<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act providing in Fulton County a system for pension and retirement pay to  
2 teachers and employees of the Board of Education of Fulton County, approved February 2,  
3 1945 (Ga. L. 1945, p. 528), as amended, particularly by an Act approved May 11, 2009 (Ga.  
4 L. 2009, p. 4004), and an Act approved April 11, 2012 (Ga. L. 2012, p. 4982), so as to  
5 provide that the Board of Education of Fulton County shall be the plan sponsor and funding  
6 agent of such plan; to provide for the administration of the plan through a committee of the  
7 board of education; to provide for a committee known as the pension board; to provide for  
8 membership and duties of the pension board; to provide for related matters; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 An Act providing in Fulton County a system for pension and retirement pay to teachers and  
13 employees of the Board of Education of Fulton County, approved February 2, 1945 (Ga. L.  
14 1945, p. 528), as amended, particularly by an Act approved May 11, 2009 (Ga. L. 2009, p.  
15 4004), and an Act approved April 11, 2012 (Ga. L. 2012, p. 4982), is amended by revising  
16 Article XII of the plan as follows:

17 "ARTICLE XII  
18 ADMINISTRATION  
19 **SECTION 12.01.**

20 Pension board, appointment, and term of office.

21 (a) The Board of Education of Fulton County shall be the plan sponsor and funding agent  
22 and shall have full responsibility and authority for interpreting and implementing the plan.  
23 (b) Administration of the plan shall be carried out under the direction of the board of  
24 education by a committee of the board of education which shall be known as the 'pension

25 board' and which shall consist of seven voting members and one nonvoting member to be  
26 qualified and chosen as follows:

27 (1) The superintendent of the Fulton County School System, ex officio, who shall not  
28 have a vote;

29 (2) The chief financial officer of the Fulton County School System, ex officio;

30 (3) The executive director of fiscal services of the Fulton County School System, ex  
31 officio; and

32 (4) Two members nominated by the pension board and appointed by the board of  
33 education for four-year terms who shall be former teachers or employees of the board of  
34 education and who shall be pensioners;

35 (5) Two members nominated by the pension board and appointed by the board of  
36 education for four-year terms who shall be active teachers or employees of the board of  
37 education and participants in the plan; and

38 (6) One member nominated by the pension board and appointed by the board of  
39 education for a four-year term who shall be a school administrator within the Fulton  
40 County School System and a participant in the plan.

41 (c) In the event of the death, resignation, or other disability of a pension board member  
42 which renders him or her incapable of performing the duties of a member of the pension  
43 board during his or her or her term of office, said pension board member's replacement shall  
44 be selected in the manner specified in subsection (b) of this section for such position and  
45 shall serve the remaining balance of such term of office.

46 (d) The superintendent of the Fulton County School System or his or her designee shall  
47 serve as chairperson of the pension board. The pension board shall elect one member to  
48 serve as secretary and shall hold a regular public meeting at least once a month at a time and  
49 place to be fixed by the pension board. The members of the pension board shall serve  
50 without pay. The pension board may employ an executive director and other personnel who  
51 shall serve at the will of and under the direction of the superintendent of the Fulton County  
52 School System at salaries to be designated by the pension board. With the consent of the  
53 board of education, such executive director shall be treated as an employee of the Fulton  
54 County Board of Education for benefits and tax reporting purposes.

55 (e) The pension board shall have the authority, subject to the approval of the board of  
56 education, to adopt rules and regulations in the administration of this Act and in carrying out  
57 the provisions of this Act and to provide for the equitable disposition of any matter not  
58 specifically covered by the provisions of this Act; provided, however, that all such rules shall  
59 be consistent with the terms and spirit of this Act.

60 (f) The chief financial officer of the Fulton County School System shall be designated as the  
61 treasurer and custodian of this Act and shall be subject to the direction of the superintendent

62 of the Fulton County School System for the purpose of carrying out his or her or her duties  
 63 under the plan. Whenever any pension has been granted by the pension board, a check shall  
 64 be drawn on the pension fund, providing for the payment of the pension as the same matures,  
 65 and shall be signed by the chairperson of the pension board and countersigned and paid by  
 66 the treasurer.

67 (g) Four members of the pension board shall constitute a quorum, and notice by the secretary  
 68 shall be given for special or called meetings of the pension board. The chairperson of the  
 69 pension board shall provide a bond with a good corporate surety in the sum of not less than  
 70 \$5,000.00 for his or her faithful performance as chairperson of the pension board, and the  
 71 treasurer shall provide a bond with a good corporate surety in the sum of not less than  
 72 \$25,000.00 for his or her faithful performance as treasurer and custodian of the pension fund.  
 73 The premiums on such bonds shall be an expense of this Act.

74 (h) Except as otherwise provided in the plan, no member or employee of the pension board  
 75 shall have any personal interest in the gains or profits from any investment made by the  
 76 pension board or use the assets of this Act in any manner, directly or indirectly, for himself  
 77 or herself or as an agent, except to make such payments as are authorized by the pension  
 78 board in accordance with the plan.

79 **SECTION 12.02.**

80 Appointment of agents.

81 In addition to those powers set forth elsewhere in the plan or this Act, the pension board may,  
 82 with the consent of the board of education, appoint such agents, who need not be members  
 83 of such pension board, as it may deem necessary for the effective performance of its duties  
 84 and may delegate to such agents such powers and duties, whether ministerial or  
 85 discretionary, as the pension board and the board of education may deem expedient or  
 86 appropriate. The pension board shall act by majority vote.

87 **SECTION 12.03.**

88 Powers and responsibility.

89 Subject to the approval of the board of education, the pension board shall have responsibility  
 90 for the administration of the plan, with all powers necessary to enable it properly to carry out  
 91 its duties as set forth in this Act. The pension board shall have the following duties and  
 92 responsibilities:

- 93 (1) To serve as trustee of the trust fund;  
 94 (2) To construe the plan and to answer all questions that arise out of the plan;

- 95 (3) To select and remove all service providers to the plan, including the actuary, broker  
96 and investment advisor, custodians, and other advisors;
- 97 (4) To decide all questions relating to the eligibility of employees to participate in the  
98 plan;
- 99 (5) To determine the benefits of this Act to which any participant or beneficiary may be  
100 entitled;
- 101 (6) To maintain and retain records relating to the participants and beneficiaries;
- 102 (7) To prepare and furnish to the participants all information required under applicable  
103 state or federal law or provisions of this Act to be furnished to them, which may be  
104 provided electronically where appropriate; provided, however, any such information  
105 required to be submitted in written form may be provided by electronic means in a  
106 manner consistent with the requirements of Treasury Regulations Section 1.401(a)(21),  
107 as amended;
- 108 (8) To prepare and furnish to agents and service providers to the plan sufficient  
109 employee data so that such service providers may carry out their obligations to the plan  
110 and its participants and beneficiaries;
- 111 (9) To prepare and file or publish with all other appropriate government officials all  
112 reports and other information required under law to be so filed or published;
- 113 (10) To provide directions to the trustee or custodian for the methods of benefit payment  
114 and all other matters where called for in the plan or requested by the trustee or custodian;
- 115 (11) To engage assistants and professional advisers;
- 116 (12) To arrange for fiduciary bonding, if necessary;
- 117 (13) To provide procedures for determination of claims for benefits; and
- 118 (14) To delegate any or all of these responsibilities.

119 **SECTION 12.04.**

120 Records of pension board.

- 121 (a) Any notice, direction, order, request, certification, or instruction of the pension board to  
122 the trustee or custodian shall be in writing and shall be signed by a member of the pension  
123 board. The trustee or custodian and every other person shall be entitled to rely conclusively  
124 upon any and all such notices, directions, orders, requests, certifications, and instructions  
125 received from the pension board and reasonably believed to be properly executed and shall  
126 act in accordance therewith.
- 127 (b) All acts and determinations of the pension board shall be duly recorded by its secretary  
128 or under the secretary's supervision, and all such records, together with such other documents

129 as may be necessary for the administration of this Act, shall be preserved in the custody of  
130 the secretary.

131 **SECTION 12.05.**

132 Reporting and disclosure.

133 The pension board shall keep all individual and group records relating to the participants and  
134 beneficiaries and all other records necessary for the proper operation of this Act. The  
135 pension board shall prepare and shall file as required by law or regulation all reports, forms,  
136 documents, and other items required by the Code and every other relevant statute, each as  
137 amended, and all regulations thereunder. This provision shall not be construed as imposing  
138 upon the pension board the responsibility or authority for the preparation, preservation,  
139 publication, or filing of any document required to be prepared, preserved, or filed by the  
140 trustee or custodian to whom such responsibilities are delegated by law or by the plan.

141 **SECTION 12.06.**

142 Construction of this Act.

143 The pension board shall take such steps as are considered necessary and appropriate to  
144 remedy any inequity that results from incorrect information received or communicated in  
145 good faith or as the consequence of an administrative error. The board of education shall  
146 interpret the plan and shall answer any questions arising in the administration, interpretation,  
147 and application of the plan. The pension board shall endeavor to act, whether by general  
148 rules or by particular decisions, so as not to discriminate in favor of or against any person and  
149 so as to treat all persons in similar circumstances uniformly. The pension board shall correct  
150 any defect of, reconcile any inconsistency in, or supply any omission from the plan.

151 **SECTION 12.07.**

152 Assistants and advisers.

153 (a) The pension board shall have the right, subject to the consent of the board of education,  
154 to delegate any of its responsibility and to hire such professional assistants and consultants  
155 as it deems necessary or advisable. To the extent that the costs for such assistants and  
156 advisers are not paid by the board of education, they shall be paid at the direction of the  
157 pension board from the trust fund as an expense of the trust fund.

158 (b) The pension board and the board of education shall be entitled to rely upon all  
159 certificates and reports made by an accountant, attorney, or other professional adviser

160 selected pursuant to this section; the pension board and the board of education shall be fully  
161 protected in respect to any action taken or suffered by them in good faith in reliance upon the  
162 advice or opinion of any such accountant, attorney, or other professional adviser; and any  
163 action so taken or suffered shall be conclusive upon each of them and upon all other persons  
164 interested in the plan."

165 **SECTION 2.**

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