

Senate Bill 178

By: Senator Millar of the 40th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 6 of Title 47 of the Official Code of Georgia Annotated,
2 relating to retirement, retirement allowances, and death benefits under the Georgia
3 Legislative Retirement System, so as to define a certain term; to broaden a certain provision
4 prohibiting a person receiving a pension under such retirement system from accepting public
5 employment; to provide that the board of trustees of such retirement system shall have the
6 authority to provide for the time and circumstances of paying benefits as necessary to comply
7 with federal law; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 6 of Chapter 6 of Title 47 of the Official Code of Georgia Annotated, relating to
11 retirement, retirement allowances, and death benefits under the Georgia Legislative
12 Retirement System, is amended in Code Section 47-6-80, relating to eligibility and
13 application for a retirement allowance, early retirement, amount of retirement allowance, and
14 increases in retirement allowance, by adding a new subsection to read as follows:

15 "(d.1) The board of trustees is authorized to provide for the payment of benefits to
16 members or beneficiaries of the retirement system at a time and under circumstances not
17 provided for in this chapter to the extent that such payment is required to maintain the
18 retirement system as a qualified retirement plan for purposes of federal income tax laws
19 and regulations."

20 **SECTION 2.**

21 Said article is further amended by revising Code Section 47-6-84, relating to termination of
22 retirement allowance upon return to service, retirement benefits for retired members
23 returning to service in the General Assembly, and board of trustees to be notified within 30
24 days if public employer employs retired plan member, as follows:

25 "47-6-84.

26 (a) As used in this Code section, the term 'public employer' means any branch of state
 27 government and any state agency, department, board, bureau, or other instrumentality.
 28 This term also includes the Board of Regents of the University System of Georgia and any
 29 public school system, including, but not limited to, primary, secondary, and postsecondary
 30 institutions operated by local or independent boards of education that receive any funds
 31 from the State of Georgia or any agency thereof.

32 ~~(a)~~(b)(1) Except as provided in paragraph (2) of this subsection, if any retired member
 33 ~~who has not yet reached normal retirement age~~ returns to the service of the state a public
 34 employer in any position, including, without limitation, service directly or indirectly as
 35 or for an independent contractor, except as a member of the General Assembly, the
 36 member's retirement allowance shall cease. Upon cessation of such service, the retired
 37 member, after proper notification to the board, shall receive the same retirement
 38 allowance which the member was receiving prior to returning to state service.

39 (2) Notwithstanding any other provisions in this chapter to the contrary, the retirement
 40 allowance of a retired member ~~who has reached normal retirement age or has not been~~
 41 ~~employed by or rendered service for the state and~~ who returns to the service of the state
 42 in any position, including, without limitation, service directly or indirectly as or for an
 43 independent contractor, other than as a member of the General Assembly shall not cease
 44 provided that such member performs no more than 1,040 hours of such service in any
 45 calendar year.

46 ~~(b)~~(c)(1) If a retired member returns to service as a member of the General Assembly
 47 after the member has reached normal retirement age, the retired member may either
 48 continue to receive a retirement benefit while serving as a member of the General
 49 Assembly or reestablish active membership in the retirement system. If the election is
 50 to reestablish active membership in the retirement system, the member shall have the
 51 same creditable service which the member possessed at the time of retirement and shall
 52 accumulate additional creditable service so long as such active membership continues.
 53 Except as otherwise provided by paragraph (2) of this subsection, a retired member who
 54 returns to service in the General Assembly shall make the election provided for in this
 55 paragraph within 30 days after taking office. Such election shall be made in writing to
 56 the board of trustees and shall be irrevocable. If a retired member returns to service as
 57 a member of the General Assembly before the member has reached normal retirement
 58 age, the retired member shall reestablish active membership in the retirement system.
 59 The member shall have the same creditable service which the member possessed at the
 60 time of retirement and shall accumulate additional creditable service so long as such
 61 active membership continues.

62 (2) A retired member who returned to service in the General Assembly prior to the
 63 existence of the option to reestablish active membership in the retirement system shall
 64 have the right to make the election provided for in paragraph (1) of this subsection at any
 65 time prior to January 1, 1991. In addition to creditable service provided for in paragraph
 66 (1) of this subsection, any such retired member who elects to reestablish active
 67 membership in the retirement system may obtain creditable service for service in the
 68 General Assembly rendered from the time of returning to service in the General
 69 Assembly until the date of reestablishing active membership in the retirement system.
 70 In order to obtain such creditable service, the member shall pay to the board of trustees
 71 the employee contributions which would have been paid to the retirement system during
 72 the period for which such creditable service is claimed, plus regular interest thereon
 73 compounded annually from the time the service in the General Assembly was rendered
 74 until the date of payment.

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

81 ~~(2)~~ Any public employer that employs a retired plan member shall within 30 days of the
 82 employee's accepting employment notify the board of trustees in writing stating the name
 83 of the plan member and the number of hours the employee is expected to work annually
 84 and shall provide such other information as the board may request. Any employer that
 85 fails to notify the board of trustees as required by this subsection shall reimburse the
 86 retirement system for any benefits wrongfully paid. It shall be the duty of the retired plan
 87 member seeking employment by the employer to notify the employer of his or her
 88 retirement status prior to accepting such position. If a retired plan member fails to so
 89 notify the employer and the employer becomes liable to the retirement system, the plan
 90 member shall hold the employer harmless for all such liability."

91 **SECTION 3.**

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