

Senate Bill 178

By: Senator Millar of the 40th

AS PASSED

**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 of a public
 39 employer.

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

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

61 time of retirement and shall accumulate additional creditable service so long as such
62 active membership continues.

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

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

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

92 **SECTION 3.**

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