

House Bill 862 (AS PASSED HOUSE AND SENATE)

By: Representatives Geisinger of the 48th, Wilkinson of the 52nd, Dollar of the 45th, Martin of the 49th, Willard of the 51st, 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, so as to amend a certain definition; to correct an
4 internal reference; to authorize the board of trustees to accept certain determinations of total
5 disability; to authorize the board of trustees to adopt interim rules and regulations in certain
6 circumstances; to provide for the automatic repeal of such rules and regulations; to provide
7 for vesting under certain conditions; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Act providing in Fulton County a system for pension and retirement pay to teachers and
11 employees of the Board of Education of Fulton County, approved February 2, 1945 (Ga. L.
12 1945, p. 528), as amended, is amended by revising subparagraph (A) of paragraph (3) of
13 Section 1.01 as follows:

14 "(A) 'Three-year high average compensation' means the average of the participant's
15 monthly compensation for the three periods of 12 consecutive months during which the
16 participant received his or her highest compensation; and"

17 **SECTION 2.**

18 Said Act is further amended by revising paragraph (4) of subsection (b) of Section 2.02 as
19 follows:

20 "(4) A participant who is granted a leave by the board for reasons of illness or study may
21 purchase service credit for such leave by repaying employee contributions in accordance
22 with paragraph (2) of this subsection; provided, however, that no participant shall be
23 entitled to such credit for a time exceeding two years of creditable service; and provided,
24 further, that limit of two years of creditable service shall not be included in determining

25 the limit on service credit that can be purchased for prior service with other employers
26 under the terms of Section 2.03 of this Act."

27 **SECTION 3.**

28 Said Act is further amended by revising Section 6.05 as follows:

29 "SECTION 6.05.

30 Determination of disability by pension board.

31 Notwithstanding anything to the contrary contained in this Act, a participant shall not be
32 considered disabled until he or she is determined to be disabled by the pension board. The
33 disability benefit shall be granted under such rules, terms, and regulations as may be fixed
34 by the pension board. In determining whether or not a participant shall be granted a
35 disability benefit due to accident or illness, the pension board shall consider, among other
36 things, whether or not the participant has served the required number of years, whether or
37 not the participant has complied with the laws, rules, and regulations governing pensions,
38 and whether or not the participant is actually totally and permanently disabled. The
39 pension board shall require that the applicant be examined by competent physicians and
40 surgeons. In deciding upon the question of permanent and total disability, the pension
41 board may receive and consider the reports and recommendations of such examining
42 medical officers, and the applicant shall have the right to submit medical and other
43 competent evidence on the question of his or her disability and right to be retired; provided,
44 however, that the pension board may accept a determination of permanent and total
45 disability by the Teachers Retirement System of Georgia, the federal Social Security
46 Administration, or any group long-term disability insurance carrier providing long-term
47 disability benefits under a plan sponsored by the employer as evidence of permanent and
48 total disability for purposes of the plan. The pension board's final determination that an
49 applicant is not totally and permanently disabled shall be binding on all parties. If the
50 pension board determines that the applicant is totally and permanently disabled, he or she
51 shall be retired; provided, however, that the pension board shall have the right at least once
52 a year to require the participant to submit to a medical examination for the purpose of
53 determining whether or not the participant has sufficiently recovered from his or her
54 disability and is able to return to his or her former position of employment. If the pension
55 board, after such examination, determines that the participant is not actually totally and
56 permanently disabled but is able to return to the position of employment he or she occupied
57 at the time of retirement or a comparable position with the employer, and if such
58 employment and status as to position, pay, and service credit at the time of retirement is

59 offered to such member and he or she either accepts or fails or refuses to accept such offer,
60 then the payment of such disability benefit shall cease."

61 **SECTION 4.**

62 Said Act is further amended in Section 12.03 by deleting the word "and" at the end of
63 paragraph (13), by replacing the period with "; and" at the end of paragraph (14), and by
64 adding a new paragraph to read as follows:

65 "(15) To adopt such rules and regulations amending the plan as may from time to time
66 be necessary to comply with federal rules and regulations during periods when the
67 General Assembly is not in session; provided, however, that any such change shall be
68 reported to the chairpersons of the House and Senate Retirement Committees for
69 legislative action. Such rules and regulations shall expire on July 1 of the year following
70 the year in which they were adopted."

71 **SECTION 5.**

72 Said Act is further amended by revising Section 14.05 as follows:

73 "SECTION 14.05.
74 Exclusive benefit.

75 Except as otherwise provided in this Act, the employer shall have no beneficial interest in
76 any asset of the trust fund and no part of any asset in the trust fund shall ever revert to or
77 be repaid to the employer, either directly or indirectly, nor, prior to the satisfaction of all
78 liabilities with respect to the participants and their beneficiaries under the plan, shall any
79 part of the corpus or income of the trust fund be used at any time for or diverted to
80 purposes other than the exclusive benefit of the participants or their beneficiaries. In
81 accordance with subsection (a) of the federal Treasury Regulation Section 1.401-6, in the
82 event of a termination or partial termination of a public retirement or pension system, a
83 member's accrued benefit as of the date of such termination or partial termination, to the
84 extent then funded, shall be nonforfeitable and fully vested under federal Internal Revenue
85 Code requirements."

86 **SECTION 6.**

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