

House Bill 256

By: Representatives Maxwell of the 17th, Greene of the 151st, Coleman of the 97th, Brooks of the 55th, and Buckner of the 137th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 47 of the Official Code of Georgia Annotated, relating to the
2 Georgia Firefighters' Pension Fund, so as to provide new definitions; to change a term for
3 membership of the board; to provide for a break in employment for certain members; to
4 clarify provisions related to leaves of absence, withdrawal of dues, and application for
5 reinstatement as an active member; to clarify provisions for failure to pay dues and the
6 reinstatement process; to permit selection of up to five beneficiaries to receive equal portions
7 of certain benefits upon the death of certain members; to provide for certain penalties for
8 false statements or falsified records; to provide for related matters; to repeal conflicting laws;
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 7 of Title 47 of the Official Code of Georgia Annotated, relating to the Georgia
13 Firefighters' Pension Fund, is amended by adding new paragraphs to Code Section 47-7-1,
14 relating to definitions, as follows:

15 "47-7-1.

16 As used in this chapter, the term:

17 (1) 'Active member' means an individual who has been granted membership in the fund
18 in accordance with the rules of this chapter and who is not an inactive member, a
19 suspended member, a retired member, or a withdrawn member.

20 ~~(1)~~(2) 'Board' means the Board of Trustees of the Georgia Firefighters' Pension Fund.

21 ~~(2)~~(3) 'Fire department' means a ~~full-time~~ full-time fire department or volunteer fire
22 department or a combination ~~full-time~~ full-time and volunteer fire department which
23 satisfies the following criteria:

24 (A) The fire department ~~is certified by the superintendent of~~ holds a valid certificate
25 of compliance issued by the Georgia Firefighter Standards and Training Council as
26 provided in pursuant to Article ~~1~~ 2 of Chapter ~~4~~ 3 of Title 25; and

27 (B) The public fire suppression facilities of the fire department are ratable not less
 28 favorably than a class nine rating under standards set forth in the Fire Suppression
 29 Rating Schedule, Section I, Public Fire Suppression, Edition 6-80, Copyright 1980,
 30 published by the Insurance Services Office, a rating organization licensed by the
 31 Commissioner of Insurance, which schedule is maintained on file with the
 32 Commissioner of Insurance as required by general law and which has not been
 33 disapproved by the Commissioner, or less than a rating which the board by regulation
 34 determines is substantially equivalent under rating standards published by a rating
 35 organization licensed by the Commissioner of Insurance performing similar rating
 36 functions which standards are maintained on file with the Commissioner of Insurance
 37 and which have not been disapproved by the Commissioner.

38 The board may require annual certification by the chief of a fire department of the
 39 satisfaction of such requirements as a condition to the eligibility of firefighters and
 40 volunteer firefighters to become members of the fund to obtain creditable service with
 41 the fund.

42 ~~(3)~~(4) 'Firefighter' means a person who is:

43 (A) A permanent, compensated employee of a fire department who in the course of his
 44 or her employment by and within a department either is a candidate for or holds a
 45 current firefighter's certificate issued under Article 1 of Chapter 4 of Title 25 and has
 46 as incident to his or her position of employment the principal duty of, and actually
 47 performs the function of, preventing and suppressing fires and who works at least 1,040
 48 hours per year; provided, however, that such term shall not include persons whose
 49 primary responsibility is the performance of emergency medical services; or

50 (B) Appointed and regularly enrolled as a volunteer with a volunteer fire department
 51 or combination ~~full-time~~ full-time and volunteer fire department which satisfies the
 52 requirements specified in subparagraph (a)(1)(D) of Code Section 25-3-23 and who, as
 53 a volunteer firefighter, has and primarily performs the principal responsibility of
 54 preventing or suppressing fires.

55 ~~(4)~~(5) ~~Full-time~~ Full-time fire department' means a ~~full-time~~ full-time department,
 56 bureau, division, or other organizational unit, separately organized and administered as
 57 such, of this state or any municipality or other political subdivision thereof, which
 58 organizational unit:

59 (A) Has, as an organizational unit, the principal responsibility to prevent and suppress
 60 fires; and

61 (B) Is financed by public appropriation or subscription and is not privately owned.

62 A ~~full-time~~ full-time fire department includes the fire chief or chief operating officer of
 63 the organizational unit and only those employees who are under the direction and
 64 supervision of the fire chief or chief operating officer.

65 ~~(5)~~(6) 'Fund' means the Georgia Firefighters' Pension Fund.

66 (7) 'Inactive member' means an individual who was an active member of the fund who
 67 obtained a leave of absence in accordance with Code Section 47-7-41 and who has not
 68 withdrawn his or her dues pursuant to Code Section 47-7-60.

69 ~~(5.1)~~(8) '~~Part-time~~ Part-time employment' means working at a permanent job position
 70 for less than 40 hours a week but at least 1,040 hours a year.

71 (9) 'Retired member' means an individual who was an active member of the fund who
 72 has commenced receipt of benefits pursuant to Article 6 of this chapter or pursuant to
 73 Code Section 47-7-102.

74 (10) 'Suspended member' means an individual who was an active member of the fund
 75 who owes at least six months of dues payments pursuant to Code Section 47-7-60.

76 ~~(6)~~(11) 'Volunteer fire department' means a volunteer fire department staffed by
 77 firefighters, volunteer firefighters, or a combination of firefighters and volunteer
 78 firefighters, separately organized and administered as such, of this state or any
 79 municipality or other political subdivision of this state or serving any fire district therein,
 80 which:

81 (A) Has the principal responsibility to prevent and suppress fires;

82 (B) Is financed by public appropriation or subscription and is not privately owned;

83 (C) Holds drills and meetings of not less than eight hours monthly; and

84 (D) Meets the requirements imposed by Code Section 47-7-81.

85 ~~(7)~~(12) 'Volunteer firefighter' means an individual who is appointed and regularly
 86 enrolled as a volunteer, with or without compensation, with a fire department; who, as
 87 a volunteer firefighter, has and primarily performs the principal responsibility of
 88 preventing or suppressing fires; and who satisfies the requirements specified in
 89 subparagraph (a)(1)(D) of Code Section 25-3-23.

90 (13) 'Withdrawn member' means an individual who was an active member of the fund
 91 who has had his or her moneys refunded pursuant to Code Section 47-7-105."

92 SECTION 2.

93 Said chapter is further amended by revising paragraph (4) of subsection (a) of Code Section
 94 47-7-20, relating to membership of the board, manner of election, and compensation and
 95 expenses, as follows:

96 "(4) One retired ~~beneficiary~~ member of the fund appointed by the Governor."

97

SECTION 3.

98 Said chapter is further amended by revising subsection (d) of Code Section 47-7-40, relating
 99 to eligibility to apply for membership and transfer of Georgia Class Nine Fire Department
 100 Pension Fund, as follows:

101 "(d) Any person who, on June 30, 2006, was an active member of the fund by virtue of
 102 holding a position other than as a ~~certified firefighter or a candidate for such certification,~~
 103 in accordance with the qualifications for membership in effect on that date, shall be entitled
 104 to remain a member of the fund; provided, however, that if such person has a break in
 105 membership such position that qualified him or her for membership on June 30, 2006, or
 106 any other eligible employment provided by this Code section, for greater than 30 days, that
 107 member shall be deemed a suspended member, and any future membership shall be subject
 108 to laws and regulations in effect at such time when that member's application for
 109 reinstatement as an active member is approved."

110

SECTION 4.

111 Said chapter is further amended by revising Code Section 47-7-41, relating to effect of
 112 withdrawal of contributions or termination of employment, eligibility for reinstatement,
 113 credit for time spent on leave of absences and resumption of payments to fund upon return
 114 of service, as follows:

115 "47-7-41.

116 (a)(1) Any active member of the fund who is in good standing with the fund, who leaves
 117 work as a firefighter or volunteer firefighter, and who elects to leave in the fund during
 118 such leave from work as a firefighter or voluntary firefighter the dues which the member
 119 has theretofore paid, shall, upon application to the board, be entitled to obtain a leave of
 120 absence from the fund for a period of not more than two years and shall be deemed an
 121 inactive member. ~~Upon application prior to the expiration of any leave of absence or~~
 122 ~~extended leave of absence, such a member shall be entitled to an extension of such leave~~
 123 ~~of absence for a period of not greater than two years.~~ An inactive member may apply for
 124 additional leaves of absence from the fund every two years. ~~If a member who leaves~~
 125 ~~work as a firefighter or volunteer firefighter an inactive member~~ fails to apply for and
 126 maintain in effect a leave of absence, the board may treat such failure as an election to
 127 withdraw from membership in the fund as provided in subsection (b) of this Code section
 128 and Code Section 47-7-105.

129 (2) ~~A~~ An inactive member of the fund who obtains a leave of absence under
 130 ~~paragraph (1) of this subsection~~ shall, upon application to the board, be entitled to
 131 ~~reinstatement to active status in the fund~~ as an active member; provided, however, that
 132 upon such application, the applicant meets the requirements set forth in Code Section

133 47-7-40 as a prerequisite to reinstated active membership. Such a reinstated active
 134 member shall be entitled to credit for service rendered before obtaining a leave of absence
 135 and after reinstatement but shall not be entitled to credit for any period during such leave
 136 of absence.

137 (b)(1) ~~Any~~ Any member may at any time elect to withdraw from membership in the fund
 138 and upon such withdrawal shall be entitled to a refund of ~~dues theretofore paid by such~~
 139 ~~member moneys~~ as provided in Code Section 47-7-105-, and such member shall be
 140 deemed a withdrawn member. Any withdrawn member ~~who elects to withdraw from~~
 141 ~~membership in the fund~~ shall not thereafter be eligible for membership or benefits except
 142 upon reinstatement to active membership in accordance with this subsection. Any ~~such~~
 143 withdrawn member may make application to the board for reinstatement ~~of membership~~
 144 as an active member. Upon making such application, the applicant must pay to the fund
 145 a reinstatement fee of \$100.00. An applicant for reinstatement of membership in the fund
 146 as provided in this subsection shall not be entitled to such reinstatement unless at the time
 147 of such application the applicant meets the requirements set forth in Code Section
 148 47-7-40. Upon reinstatement, such reinstated active member shall be entitled to credit
 149 for service rendered after reinstatement ~~to active membership in the fund~~ as an active
 150 member but not for service prior to the date of reinstatement. Any such applicant who
 151 fails to satisfy the requirements of reinstatement shall not be entitled to ~~membership in~~
 152 ~~the fund~~ reinstatement as an active member.

153 ~~(2) An applicant for reinstatement of membership in the fund as provided in this~~
 154 ~~subsection shall not be entitled to such reinstatement unless at the time of such~~
 155 ~~application the applicant meets the requirements set forth in Code Section 47-7-40."~~

156 SECTION 5.

157 Said chapter is further amended by revising Code Section 47-7-60, relating to dues required
 158 of members and effect of failure to pay dues in timely manner, as follows:

159 "47-7-60.

160 (a) Each ~~firefighter or volunteer firefighter accepted for membership in the fund~~ active
 161 member shall pay to the fund the sum of \$25.00 for each month of service as a firefighter
 162 or volunteer firefighter in a fire department. Such monthly payments shall be due on or
 163 before the tenth day of each month of service.

164 (b)(1) Any active member who becomes six months in arrears in making such payments
 165 shall be ~~removed from membership in the fund and shall thereafter be ineligible for~~
 166 ~~membership in or benefits under the fund, except as provided in this subsection and in~~
 167 ~~subsection (c) of this Code section~~ deemed a suspended member.

168 ~~(2) Any member who has been removed from membership in the fund under~~
 169 ~~paragraph (1) of this subsection~~ A suspended member may make application to the board
 170 for reinstatement ~~of membership~~ as an active member. As a condition of such
 171 reinstatement, the applicant must pay to the fund a reinstatement fee of \$100.00. Upon
 172 such reinstatement as an active member, such member shall be entitled to credit for
 173 service rendered after reinstatement. If such member has not withdrawn the dues he or
 174 she paid to the fund prior to ~~the suspension~~ becoming a suspended member, then he or
 175 she shall also be entitled to creditable service for service rendered prior to ~~the suspension~~
 176 his or her becoming a suspended member.

177 ~~(3) An applicant~~ A suspended member who applies for reinstatement ~~of membership in~~
 178 ~~the fund as provided in this subsection~~ as an active member shall not be entitled to
 179 reinstatement unless at the time of such application the applicant meets the requirements
 180 set forth in Code Section 47-7-40 ~~as a prerequisite to reinstatement to active membership~~.

181 (c) If a suspended member who has attained the minimum service credits required for a
 182 normal retirement benefit under Code Section 47-7-100 ~~is suspended from membership in~~
 183 ~~the fund under this Code section and~~ is not reinstated as an active member, then, provided
 184 that such member does not withdraw dues paid to the fund, ~~prior to his or her suspension,~~
 185 ~~upon termination of service~~, such member shall be entitled to a normal retirement benefit
 186 payable under Code Section 47-7-100. The normal retirement benefit to which such
 187 member may thereafter become entitled upon termination of service shall be calculated as
 188 of the date of the member's suspension from the fund, using the service credits and age the
 189 member had attained on the date of suspension, which shall be deemed to be the youngest
 190 age at which early retirement benefits may commence or such greater age as the member
 191 has actually attained on that date, and the maximum monthly benefit in effect on such date
 192 of ~~suspension~~ becoming a suspended member."

193

SECTION 6.

194 Said chapter is further amended by revising paragraph (2) of subsection (d) and paragraph
 195 (2) of subsection (h) of Code Section 47-7-100, relating to eligibility for full pension
 196 benefits, eligibility for partial benefits, optional pension benefits, vesting of rights to pension
 197 benefits, and early retirement provisions, as follows:

198 "(2) Option B, the ten years' certain and life option, shall consist of a decreased
 199 retirement benefit payable to the member during the member's lifetime; and, in the event
 200 of the member's death within ten years after the member's retirement, the same monthly
 201 benefits shall be payable to the member's selected beneficiary, or, if the member so elects,
 202 the total monthly benefit may be divided equally among up to five selected beneficiaries,
 203 for the balance of such ten-year period."

204 "(2) If any member who has not elected an option under subsection (d) of this Code
 205 section dies after accruing at least 15 years of creditable service but before applying for
 206 retirement as provided in this Code section, and such member is not survived by a spouse,
 207 ~~the up to five selected beneficiary beneficiaries~~ shall be entitled to receive a benefit,
 208 equally apportioned among the selected beneficiaries, as if the member had elected to
 209 receive Option B as provided in paragraph (2) of subsection (d) of this Code section."

210 **SECTION 7.**

211 Said chapter is further amended by revising Code Section 47-7-103, relating to benefits
 212 payable to a named beneficiary upon death of a member before benefits have commenced
 213 or before benefits equal to the member's dues have been paid, as follows:

214 "47-7-103.

215 (a) In the event of the death of a an active member of the fund ~~who is in good standing and~~
 216 who has not commenced receiving any benefits under this chapter, ~~the designated~~
 217 beneficiary up to five selected beneficiaries of such deceased member shall be entitled to
 218 be paid the amount of \$5,000.00 split equally among the selected beneficiaries, upon any
 219 selected beneficiary making proper application to the executive director of the fund. Such
 220 application shall be accompanied by a certified copy of the death certificate of the deceased
 221 member and such other information as may be required by the board.

222 (b) In the event of the death of a retired member of the fund ~~who is in good standing~~, who
 223 has not elected survivor benefits under Option A or B as provided for in subsection (d) of
 224 Code Section 47-7-100; and who has commenced receiving benefits under this chapter, but
 225 who has not received total benefits in an amount equal to \$5,000.00, ~~the member's named~~
 226 beneficiary up to five beneficiaries selected by the member shall be entitled to receive an
 227 equally apportioned amount from the difference between \$5,000.00 and the amount of
 228 benefits received by such deceased member, upon making application as provided for in
 229 subsection (a) of this Code section."

230 **SECTION 8.**

231 Said chapter is further amended by revising Code Section 47-7-126, relating to penalty for
 232 false statements or falsified records and correction of errors by the board, as follows:

233 "47-7-126.

234 (a) Any person who knowingly makes any false statements or falsifies or permits to be
 235 falsified any records of the fund in an attempt to defraud the fund shall be guilty of a
 236 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be
 237 punished by a fine not to exceed ~~\$500.00~~ \$2,000.00, imprisonment for up to 12 months, or
 238 both.

239 (b) On and after July 1, 2015, if the board finds, after notice and opportunity for a hearing
240 conducted in accordance with the procedure for contested cases under Chapter 13 of Title
241 50, the 'Georgia Administrative Procedure Act,' that any person on or after July 1, 2015,
242 has knowingly:

243 (1) Made a material false statement or falsified or permitted to be falsified any records
244 of the fund or documents of the fund in an attempt to defraud the fund;

245 (2) Obtained or continued membership in the fund while not eligible to become or
246 remain a member of the fund;

247 (3) Obtained benefits that he or she is not entitled to receive; or

248 (4) Obtained benefits in an amount greater than he or she is entitled to receive,

249 the board may order that such person shall forfeit all rights and benefits that he or she may
250 be entitled to under the fund. Any person who is aggrieved or adversely affected by a final
251 action of the board under this subsection shall have the right of judicial review in the
252 superior courts.

253 (c) If any change or error in the records of the fund results in any member or beneficiary
254 receiving from it more or less than such member or beneficiary would have been entitled
255 to receive had the records been correct, the board shall have the power to correct such error
256 and to adjust the payments as far as is practicable and in such manner that the actuarial
257 equivalent of any additional benefit to which such member or beneficiary was correctly
258 entitled shall be paid or in such manner that any excess payment shall be recovered."

259 **SECTION 9.**

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