

ADOPTED

Representative Battles of the 15th offers the following amendment:

1 *Amend the Senate substitute to HB 266 (LC 43 0150S) by striking lines 1 through 58 and*
 2 *inserting in lieu thereof the following:*

3 To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and
 4 pensions, so as to correct certain provisions relative to the investment authority of local
 5 retirement systems; to correct the name of a certain council; to modify a definition related
 6 to the Georgia Municipal Employees Benefit System; to modify provisions related to the
 7 return of mandatory employee contributions in the Georgia Municipal Employees Benefit
 8 System; to provide new definitions; to change a term for membership of the board; to provide
 9 for a break in employment for certain members; to clarify provisions related to leaves of
 10 absence, withdrawal of dues, and application for reinstatement as an active member; to
 11 clarify provisions for failure to pay dues and the reinstatement process; to permit selection
 12 of up to five beneficiaries to receive equal portions of certain benefits upon the death of
 13 certain members; to provide for certain penalties for false statements or falsified records; to
 14 provide for related matters; to repeal conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **SECTION 1.**

17 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
 18 amended in Chapter 1, relating to investment and reinvestment of assets of local retirement
 19 system, valuation and limitation on investments, and duties of the state auditor, by revising
 20 subsection (a) of Code Section 47-1-12, relating to investment and reinvestment of assets of
 21 local retirement system, as follows:

22 "(a) The board of trustees of any local retirement system shall have full power to invest
 23 and reinvest assets of the retirement system and to purchase, hold, sell, assign, transfer, and
 24 dispose of any securities and other investments in which assets of the retirement system
 25 have been invested, any proceeds of any investments, and any money belonging to the
 26 retirement system; provided, however, that, except as otherwise provided in this Code
 27 section, such power shall be subject to all terms, conditions, limitations, and restrictions
 28 imposed by ~~the laws of this state upon domestic life insurance companies~~ Article 7 of
 29 Chapter 20 of this title in making and disposing of their investments."

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SECTION 2.

Said title is further amended in Chapter 2, relating to the Employees' Retirement System of Georgia, by revising paragraph (1) of subsection (a) of Code Section 47-2-323, relating to membership in retirement system of employees of the Georgia Public Defender Standards Council, creditable service, and contributions, as follows:

"(1) 'Council' means the Georgia Public Defender ~~Standards~~ Council established by Code Section 17-12-3."

SECTION 3.

Said title is further amended in Chapter 5, relating to the Georgia Municipal Employees Benefit System, by revising paragraph (6) of Code Section 47-5-2, relating to definitions, as follows:

"(6) 'Employee' means any full-time salaried or hourly rated person in the active service of an employer and any employees of the board of trustees. Notwithstanding any laws to the contrary, the term also includes any appointed or elected member of the governing authority of a municipal corporation of this state or of an employer created pursuant to the charter of a municipal corporation of this state, the chief legal officer or any associate legal officer of a municipal corporation, and any municipal officer elected or appointed to preside over the court of a municipal corporation. Said term shall also include part-time employees of an employer for the purposes of participating in employee benefit plans."

SECTION 4.

Said title is further amended in said chapter by revising Code Section 47-5-47, relating to return of contributions to employee or employee's estate, as follows:

"47-5-47.

~~Plans~~ Except as otherwise provided with respect to the provision of death benefits under a plan, plans providing for retirement benefits established under this chapter shall provide that mandatory contributions made by a participating employee shall be returned to such ~~employee~~ employee's surviving spouse or his to the estate of the participant or the participant's pre-retirement beneficiary in the event of death before retirement. If the employee is separated from employment prior to the time he or she is eligible for retirement benefits, such contributions shall be returned unless the employee chooses to claim his or her vested benefits, in which case the employee contributions shall remain with the fund until such time as the employee becomes eligible for the vested benefits. Such contributions may be returned without interest or with such interest as is provided in the plan."

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SECTION 5.

Said title is further amended in Chapter 7, relating to the Georgia Firefighters' Pension Fund, by adding new paragraphs to Code Section 47-7-1, relating to definitions, as follows:

"47-7-1.

As used in this chapter, the term:

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

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

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

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

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

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

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

(A) A permanent, compensated employee of a fire department who in the course of his or her employment by and within a department either is a candidate for or holds a current firefighter's certificate issued under Article 1 of Chapter 4 of Title 25 and has as incident to his or her position of employment the principal duty of, and actually performs the function of, preventing and suppressing fires and who works at least 1,040

101 hours per year; provided, however, that such term shall not include persons whose
 102 primary responsibility is the performance of emergency medical services; or
 103 (B) Appointed and regularly enrolled as a volunteer with a volunteer fire department
 104 or combination ~~full-time~~ full-time and volunteer fire department which satisfies the
 105 requirements specified in subparagraph (a)(1)(D) of Code Section 25-3-23 and who, as
 106 a volunteer firefighter, has and primarily performs the principal responsibility of
 107 preventing or suppressing fires.

108 ~~(4)~~(5) 'Full-time Full-time fire department' means a ~~full-time~~ full-time department,
 109 bureau, division, or other organizational unit, separately organized and administered as
 110 such, of this state or any municipality or other political subdivision thereof, which
 111 organizational unit:

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

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

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

118 ~~(5)~~(6) 'Fund' means the Georgia Firefighters' Pension Fund.

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

122 ~~(5.1)~~(8) 'Part-time Part-time employment' means working at a permanent job position
 123 for less than 40 hours a week but at least 1,040 hours a year.

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

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

129 ~~(6)~~(11) 'Volunteer fire department' means a volunteer fire department staffed by
 130 firefighters, volunteer firefighters, or a combination of firefighters and volunteer
 131 firefighters, separately organized and administered as such, of this state or any
 132 municipality or other political subdivision of this state or serving any fire district therein,
 133 which:

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

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

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

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

138 ~~(7)~~(12) 'Volunteer firefighter' means an individual who is appointed and regularly
 139 enrolled as a volunteer, with or without compensation, with a fire department; who, as
 140 a volunteer firefighter, has and primarily performs the principal responsibility of
 141 preventing or suppressing fires; and who satisfies the requirements specified in
 142 subparagraph (a)(1)(D) of Code Section 25-3-23.

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

145 **SECTION 6.**

146 Said title is further amended in said chapter by revising paragraph (4) of subsection (a) of
 147 Code Section 47-7-20, relating to membership of the board, manner of election, and
 148 compensation and expenses, as follows:

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

150 **SECTION 7.**

151 Said title is further amended in said chapter by revising subsection (d) of Code Section
 152 47-7-40, relating to eligibility to apply for membership and transfer of Georgia Class Nine
 153 Fire Department Pension Fund, as follows:

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

163 **SECTION 8.**

164 Said title is further amended in said chapter by revising Code Section 47-7-41, relating to
 165 effect of withdrawal of contributions or termination of employment, eligibility for
 166 reinstatement, credit for time spent on leave of absences and resumption of payments to fund
 167 upon return of service, as follows:

168 "47-7-41.

169 (a)(1) Any active member of the fund who is in good standing with the fund, who leaves
 170 work as a firefighter or volunteer firefighter, and who elects to leave in the fund during
 171 such leave from work as a firefighter or voluntary firefighter the dues which the member

172 has theretofore paid, shall, upon application to the board, be entitled to obtain a leave of
 173 absence from the fund for a period of not more than two years and shall be deemed an
 174 inactive member. ~~Upon application prior to the expiration of any leave of absence or~~
 175 ~~extended leave of absence, such a member shall be entitled to an extension of such leave~~
 176 ~~of absence for a period of not greater than two years. An inactive member may apply for~~
 177 ~~additional leaves of absence from the fund every two years. If a member who leaves~~
 178 ~~work as a firefighter or volunteer firefighter an inactive member fails to apply for and~~
 179 maintain in effect a leave of absence, the board may treat such failure as an election to
 180 withdraw from membership in the fund as provided in subsection (b) of this Code section
 181 and Code Section 47-7-105.

182 (2) ~~A An inactive member of the fund who obtains a leave of absence under~~
 183 ~~paragraph (1) of this subsection shall, upon application to the board, be entitled to~~
 184 ~~reinstatement to active status in the fund as an active member; provided, however, that~~
 185 upon such application, the applicant meets the requirements set forth in Code Section
 186 47-7-40 as a prerequisite to reinstated active membership. Such a reinstated active
 187 member shall be entitled to credit for service rendered before obtaining a leave of absence
 188 and after reinstatement but shall not be entitled to credit for any period during such leave
 189 of absence.

190 (b)(1) ~~A Any member may at any time elect to withdraw from membership in the fund~~
 191 ~~and upon such withdrawal shall be entitled to a refund of dues theretofore paid by such~~
 192 ~~member moneys as provided in Code Section 47-7-105., and such member shall be~~
 193 ~~deemed a withdrawn member. Any withdrawn member who elects to withdraw from~~
 194 ~~membership in the fund shall not thereafter be eligible for membership or benefits except~~
 195 upon reinstatement to active membership in accordance with this subsection. Any ~~such~~
 196 withdrawn member may make application to the board for reinstatement of membership
 197 as an active member. Upon making such application, the applicant must pay to the fund
 198 a reinstatement fee of \$100.00. An applicant for reinstatement of membership in the fund
 199 as provided in this subsection shall not be entitled to such reinstatement unless at the time
 200 of such application the applicant meets the requirements set forth in Code Section
 201 47-7-40. Upon reinstatement, such reinstated active member shall be entitled to credit
 202 for service rendered after reinstatement to active membership in the fund as an active
 203 member but not for service prior to the date of reinstatement. Any such applicant who
 204 fails to satisfy the requirements of reinstatement shall not be entitled to membership in
 205 the fund reinstatement as an active member.

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

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SECTION 9.

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

"47-7-60.

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

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

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

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

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

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SECTION 10.

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

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

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

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SECTION 11.

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

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"47-7-103.

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

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

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281 benefits received by such deceased member, upon making application as provided for in
 282 subsection (a) of this Code section."

283 **SECTION 12.**

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

287 "47-7-126.

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

293 (b) On and after July 1, 2015, if the board finds, after notice and opportunity for a hearing
 294 conducted in accordance with the procedure for contested cases under Chapter 13 of Title
 295 50, the 'Georgia Administrative Procedure Act,' that any person on or after July 1, 2015,
 296 has knowingly:

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

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

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

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

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

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

313 **SECTION 13.**

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