

House Bill 336

By: Representatives Blackmon of the 146th, Belton of the 112th, Dickey of the 140th, Clark of the 147th, Bentley of the 139th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated,
2 relating to retirement allowances, disability benefits, and spouses' benefits, so as to require
3 certain public employers to make employer and employee contributions to the Teachers
4 Retirement System of Georgia for beneficiaries employed by such certain public employers;
5 to permit beneficiaries to return to service full-time as teachers without affecting their
6 benefits; to provide for related matters; to provide conditions for an effective date and
7 automatic repeal; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

10 Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to
11 retirement allowances, disability benefits, and spouses' benefits, is amended by revising Code
12 Section 47-3-127, relating to effect of restoration to service on retirement allowances and
13 creditable service after restoration to service, as follows:

14 "47-3-127.

15 (a) ~~If, except as provided in Code Section 47-3-127.1, a beneficiary is restored to service~~
16 as a teacher, he or she may elect:

17 (1) Cessation of his or her retirement allowance, in which case he or she shall again
18 become a contributing member of the retirement system and be governed by the
19 retirement provisions of this chapter; or

20 (2) ~~Not to reinstate his or her membership in the retirement system, in which case his or~~
21 ~~her retirement benefits shall be suspended during the period of time he or she is restored~~
22 ~~to service. Upon cessation of such service, his or her prior retirement allowance shall be~~
23 resumed he or she shall remain a beneficiary and shall continue to receive his or her
24 retirement allowance and any postretirement benefit adjustments for which he or she is
25 eligible; provided, however, that, such service shall not constitute creditable service and

26 such beneficiary shall not be entitled to a recomputation of retirement benefits upon a
 27 cessation of such service.

28 If the returning beneficiary fails to elect either choice, his or her status shall be as if he or
 29 she had elected paragraph (1) (2) of this subsection.

30 (b)(1) ~~Any~~ ~~Anything in this chapter to the contrary notwithstanding,~~ any prior service
 31 certificate, on the basis of which a member's creditable service was computed at the time
 32 of his or her retirement, shall be restored to full force and effect upon his or her
 33 restoration to service.

34 (2) Upon his such member's subsequent retirement he or she shall be credited with all
 35 his or her service as a ~~member, including service~~ contributing member of the retirement
 36 system rendered after his or her restoration to service.

37 (3) If ~~he~~ such member is restored to service on or after attaining age 50, his or her
 38 retirement benefits upon subsequent retirement shall not exceed the sum of the pension
 39 ~~which that~~ he or she was receiving immediately prior to his or her last restoration to
 40 membership and the pension payable in respect to his or her subsequent service, ~~except~~
 41 ~~as provided in subsection (c) of this Code section, provided that if~~ unless he or she:

42 (A) ~~Has~~ has served at least two school years as a contributing member after restoration
 43 to service; and if ~~he~~

44 (B) Reimburses ~~reimburses~~ the retirement system for any retirement benefits received
 45 from the retirement system during his or her retirement, plus regular interest, ~~such~~
 46 ~~person.~~

47 Thereupon, he or she shall receive credit for any prior creditable service; and upon
 48 subsequent retirement ~~he shall~~, be credited with all his or her service as a member, which
 49 ~~service~~ shall ~~all~~ be counted in determining his or her retirement benefits allowance upon
 50 his or her subsequent retirement. ~~He shall not be~~ without being limited to the retirement
 51 benefits allowance that he or she was receiving prior to his or her last restoration to
 52 membership in the retirement system.

53 (c) ~~The retirement benefits payable to a beneficiary who retired prior to July 1, 1961, who~~
 54 ~~was restored to service and who subsequently retired on or after July 1, 1961, shall be~~
 55 ~~determined under the pension provisions in effect at the time of that subsequent retirement,~~
 56 ~~provided that such member completed at least one year of creditable service subsequent to~~
 57 ~~such restoration to service~~ Reserved.

58 (d) Anything in this chapter to the contrary notwithstanding, a beneficiary may elect to
 59 return to service on an hourly basis as a classroom aide, provided such service is less than
 60 full time, or as a substitute teacher without reinstating his membership in the system. If
 61 such election is made, he shall continue to receive his retirement benefits and any
 62 postretirement benefit adjustments granted, if any, during such part-time service. Such

63 part-time service shall not constitute creditable service and such beneficiary shall not be
64 entitled to a recomputation of retirement benefits upon a cessation of part-time service.

65 (e)(1) A beneficiary of this retirement system shall be deemed to be restored to service
66 within the meaning of this Code section if, ~~except as otherwise provided in Code~~
67 ~~Section 47-3-127.1~~, such beneficiary is employed by an employer:

68 (A) In a position previously held by a teacher; or

69 (B) In a capacity which would normally be held by a teacher, as determined by the
70 board of trustees, whether employed directly or indirectly, for which the compensation
71 is greater than the larger of:

72 (i) ~~One-half~~ ~~one-half~~ of the beneficiary's average annual compensation used to
73 calculate his or her retirement benefit; or

74 (ii) ~~The~~ ~~the~~ beneficiary's final compensation at the time of his or her retirement;
75 ~~whichever is larger;~~

76 ~~provided, however,~~ that such amount prior compensation amounts shall be increased by
77 any annual cost-of-living adjustment reflected in the state teacher salary schedule.

78 (2) If an employer employs a beneficiary in any manner specified in paragraph (1) of this
79 subsection during the calendar month of the effective date of the beneficiary's retirement,
80 the employer shall reimburse the retirement system for all benefits wrongly paid to the
81 beneficiary.

82 (3) If an employer employs a beneficiary in any manner specified in paragraph (1) of this
83 subsection any time after the last day of the calendar month of the effective date of the
84 beneficiary's retirement, the employer shall:

85 (A) ~~So~~ ~~so~~ notify the board of trustees, stating the beneficiary's name, salary, number
86 of hours, whether ~~the~~ such beneficiary is employed as a teacher, and such other
87 information as the board of trustees requests; and

88 (B) Reimburse ~~the employer shall reimburse~~ the retirement system for all benefits
89 wrongly paid to the beneficiary.

90 ~~(4)(f)(1)~~ It shall be the duty of a beneficiary of this retirement system to notify an
91 employer of his or her status as a beneficiary prior to accepting employment with ~~that~~
92 such employer.

93 (2) If a beneficiary fails to so notify an employer and as a result the employer becomes
94 obligated to this retirement system pursuant to paragraph (2) or (3) of ~~this~~ subsection (e)
95 of this Code section, the beneficiary shall be liable to the employer for any amount ~~the~~
96 such employer is obligated to pay to this retirement system.

97 ~~(5)(3)~~ If an employer ~~who~~ that is obligated to this retirement system pursuant to
98 paragraph (2) or (3) of ~~this~~ subsection (e) of this Code section fails to pay the amount
99 due, such amount shall be deducted from any funds payable to ~~the~~ such employer by the

100 state, including without limitation the Department of Education and the board of regents,
101 and paid to the board of trustees of this retirement system.

102 (4) Within 30 days of an employer's employment of a beneficiary, such employer shall
103 notify the board of trustees stating such beneficiary's name, salary, number of hours, and
104 such other information as the board of trustees may prescribe.

105 (g)(1) An employer that directly or indirectly remunerates a beneficiary who is restored
106 to service as a teacher and who has made or defaulted to the election pursuant to
107 paragraph (2) of subsection (a) of this Code section shall pay to the retirement system an
108 amount equal to the product of:

109 (A) The combination of the rate required by this chapter for employer contributions
110 and employee contributions; and

111 (B) The remuneration made to such beneficiary.

112 (2) A beneficiary shall not receive creditable service as a result of employment described
113 in paragraph (1) of this subsection, and he or she shall be considered by the retirement
114 system solely as a beneficiary.

115 (3) If an employer that is obligated to make contributions or reimbursements to the
116 retirement system pursuant to this Code section fails to make such contributions, any
117 unpaid amounts shall be deducted from any funds payable to such employer by the state,
118 including without limitation the Department of Education and the board of regents, and
119 shall be paid to the retirement system.

120 (4) For beneficiaries employed as provided for in subsection (d) of this Code section, the
121 payments required by paragraph (1) of this subsection shall not be required."

122 **SECTION 2.**

123 This Act shall become effective on July 1, 2020, only if it is determined to have been
124 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
125 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
126 become effective and shall be automatically repealed in its entirety on July 1, 2020, as
127 required by subsection (a) of Code Section 47-20-50.

128 **SECTION 3.**

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