Senate Bill 174
By: Senators Black of the 8th, Robertson of the 29th, Brass of the 28th, Anderson of the 43rd and Walker III of the 20th

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 1 of Title 47 of the Official Code of Georgia Annotated, relating to restrictions and prohibitions on membership in public retirement or pension systems, so as to revise the definition of public employment related crime; to modify the manner and timing for the deduction or cessation of payments owed by a public employee as a result of public employment related crimes; to increase the time in which a public retirement system shall initiate certain administrative proceedings upon the conviction of a member or beneficiary of a public employment related crime; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 1 of Title 47 of the Official Code of Georgia Annotated, relating to restrictions and prohibitions on membership in public retirement or pension systems, is amended by revising Code Section 47-1-20, relating to definitions, as follows:

"47-1-20. As used in this article, the term:

(1) 'Conviction' means a judgment of conviction for the commission of a crime which is entered upon a verdict or plea of guilty.

(1.1) 'Drug related crime' means a felony specified in subsection (b) of Code Section 16-13-30 and any felony specified in Code Section 16-13-31.

(1.2) 'Economic impact of a public employment related crime' means the total of the economic gain to the perpetrator of a public employment related crime and the economic loss to the public entity.

(2) 'Employee contribution' means that part of the compensation of a public employee which is paid by the employee or by the employer on the employee's behalf to a public retirement system as a requirement for membership in the public retirement system."
(3) 'Final conviction' means a conviction which has been upheld after the convicted person has exhausted all appeals of the conviction.

(4) 'Political subdivision' means any county, municipality, or local school district.

(5) 'Public employee' means elected and appointed officials and employees of the state or any branch, department, board, bureau, commission, authority, or other agency of the state and elected and appointed officials and employees of any political subdivision or authority or other agency of a political subdivision.

(6) 'Public employment related crime' means any one or more of the following crimes:

   (A) Theft as provided in any one or more of Code Sections 16-8-2 through 16-8-9 when the theft is by an officer or employee of a government in breach of duties as such officer or employee and conviction for such crime is punishable under paragraph (3) of subsection (a) of Code Section 16-8-12;

   (B) Any felony provided for in Article 1 of Chapter 10 of Title 16, relating to abuse of governmental office

   (C) Making false statements or concealing facts in matters within the jurisdiction of the state or a political subdivision as provided in Code Section 16-10-20;

   (D) Conspiracy to defraud the state or a political subdivision as provided in Code Section 16-10-21;

   (E) Stealing, altering, or concealing public records as provided in Code Section 45-11-1;

   (F) Selling offices or dividing fees as provided in Code Section 45-11-2; and

   (G) Any felony conviction for any of the crimes specified in subparagraphs (A) through (E) of this paragraph under the laws of any other state or the United States; provided, however, that the provisions of this subparagraph shall apply to persons who first or again become members of a public retirement system on or after July 1, 2008.

(7) 'Public retirement system' means any retirement or pension system now or hereafter created by or pursuant to the authority of Georgia law or the Constitution of Georgia which has public employees as members of the retirement or pension system.

(8) 'Vested' means having sufficient creditable service as a member of a public retirement system to qualify to receive a retirement benefit upon retirement or termination from public service or upon attaining retirement age if public service is terminated prior to attaining such age.”
SECTION 2.

Said article is further amended by revising Code Section 47-1-22, relating to reduction and forfeiture of rights and benefits by public employees after July 1, 1985, for committing public employment related crimes and reimbursement of contributions, as follows:

"47-1-22.

(a) This Code section shall apply to public employees first or again becoming public employees after July 1, 1985.

(b)(1) If a public employee commits a public employment related crime in the capacity of a public employee and is convicted for the commission of such crime, upon final conviction such person's benefits under a public retirement or pension system, including any survivor's benefits if applicable, shall be reduced by an amount equal to three times the economic impact of the crime, as determined pursuant to the provisions of Code Section 47-1-25.

(2) Payment of such benefits shall cease until such amount has been forfeited, after which benefits shall be restored. If the person has not begun to receive a benefit, the deduction shall commence at the time such benefits would normally begin.

(3) As an alternative to the method and manner of cessation or deduction of payments required by paragraph (2) of this subsection, a public retirement system may adopt a policy which provides that the regular benefit payments to the person convicted of a public employment related crime shall be reduced in equal installments that are actuarially determined to be equal to the net present value of the reduction required by paragraph (1) of this subsection over the life expectancy of such person.

(4) For purposes of this subsection, the term 'benefit' shall not include a refund of employee contributions without interest."

SECTION 3.

Said article is further amended by revising Code Section 47-1-25, relating to determination of economic impact of public employment related crime, as follows:

"47-1-25.

Within 90 90 days following the day the board of trustees receives notice that a member of the retirement system has been convicted of a public employment related crime, the board shall initiate proceedings in the Office of State Administrative Hearings, under the provisions of Article 2 of Chapter 13 of Title 50, to determine the economic impact of the public employment related crime. Such matter shall be deemed to be a contested case within the meaning of such article. The Department of Law shall represent the board of trustees in such proceedings. The decision of the administrative law judge shall be final unless appeal is made as otherwise provided by law."
SECTION 4.

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