

The House Committee on Retirement offers the following substitute to HB 109:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to the
2 Teachers Retirement System of Georgia, so as to modify conditions of the Teachers
3 Retirement System of Georgia for individuals who first become members or who withdraw
4 their accumulated contributions on or after July 1, 2019; to revise the computation of
5 earnable compensation; to revise the definition of average final compensation; to modify the
6 employee contribution rate; to prohibit creditable service for unused sick leave; to modify
7 provisions for normal retirement age; to modify the vesting period; to modify computation
8 of postretirement benefit adjustments; to provide for related matters; to provide for an
9 effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to the Teachers
13 Retirement System of Georgia, is amended by revising paragraphs (6) and (11) of Code
14 Section 47-3-1, relating to definitions, as follows:

15 "(6) 'Average final compensation' means:

16 (A) For an individual who first became a member prior to July 1, 2019, and who did
17 not withdraw his or her accumulated contribution on or after July 1, 2019, the average
18 annual earnable compensation of a teacher such individual during the two consecutive
19 years of membership service producing the highest such average; and

20 (B) For an individual who first becomes a member or who withdraws his or her
21 accumulated contributions on or after July 1, 2019, the average annual earnable
22 compensation of such individual during the five consecutive years of membership
23 service producing the highest such average."

24 "(11) 'Earnable compensation' means the full rate of regular compensation payable to a
25 member for his or her full normal working time and includes compensation paid to a

26 member by an employer from grants or contracts made by outside agencies with the
 27 employer; provided, however, that:

28 (A) All moneys paid by an employer for a member or by a member into any plan of tax
 29 sheltered annuity shall be included as earnable compensation for the purpose of
 30 computing any contributions required to be made to the retirement system and also for
 31 the purpose of computing any benefits or allowances payable under this chapter;

32 (B) Such term shall include contributions made to a qualified transportation plan,
 33 within the meaning of Section 132(f) of the federal Internal Revenue Code, and before
 34 tax or salary deferral contributions made under Sections 125, 401(k), 402(g)(3), 457,
 35 or 414(h) of the federal Internal Revenue Code to this retirement system or to any other
 36 retirement plan maintained by an employer; and

37 (C) For an individual who first becomes a member or who withdraws his or her
 38 accumulated contributions on or after July 1, 2019, earnable compensation shall not
 39 exceed \$200,000.00; provided, however, that such maximum amount shall increase on
 40 July 1, 2020, and annually thereafter by an amount equal to the lesser of 3 percent or
 41 the prior year's annualized rate of inflation as determined by the board in accordance
 42 with generally accepted economic principles."

43 **SECTION 2.**

44 Said chapter is further amended by revising Code Section 47-3-41, relating to annuity
 45 savings fund generally, as follows:

46 "47-3-41.

47 (a) The annuity savings fund shall be the fund in which shall be accumulated the
 48 contributions deducted from the compensation of members to provide for their annuities.

49 Contributions to and payments from the annuity savings fund shall be made as follows:

50 (1)(A) After the commencement date, each employer shall cause to be deducted from
 51 the salary of each member for each and every payroll period a percentage of the
 52 member's earnable compensation as determined by the board of trustees which shall be:

53 (i) For an individual who first became a member prior to July 1, 2019, and who did
 54 not withdraw his or her accumulated contribution on or after July 1, 2019, not less
 55 than 5 nor more than 6 percent; ~~but no such~~ and

56 (ii) For an individual who first becomes a member or who withdraws his or her
 57 accumulated contributions on or after July 1, 2019, not less than 6 nor more than 8.5
 58 percent. Such percentage shall be determined annually by the board and shall reflect
 59 needs of the fiscal state of the retirement system.

60 (B) A deduction shall not be made from the compensation of a member after the close
61 of the school, fiscal, or contract year in which the member has attained age 65 and has
62 completed 40 or more years of creditable service.

63 (C)(i) In determining the amount earnable by a member in a payroll period, the
64 employer may consider the annual rate of compensation payable to such member on
65 the first day of the payroll period as continuing throughout such payroll period. The
66 employer may omit the deduction from compensation for any period which is less
67 than a full payroll period, if a teacher was not a member on the first day of the payroll
68 period.

69 (ii) In order to facilitate the making of deductions, the employer may modify the
70 deductions required of any member by an amount not to exceed one-tenth of 1 percent
71 of the annual compensation, on the basis of which such deductions are to be made.

72 (iii) Each employer shall immediately pay the amount deducted to the board of
73 trustees, in such manner as the board of trustees shall prescribe, which amount shall
74 be credited by the board of trustees to the individual accounts in the annuity savings
75 fund of the member from whose compensation the deductions were made.

76 (iv) Beginning July 1, 1987, the employee contributions required under this
77 paragraph shall be paid as provided in Code Section 47-3-41.1;

78 (2) Notwithstanding any other provisions of this subsection, at the close of any school,
79 fiscal, or contract year in which a member has completed 40 or more years of creditable
80 service, such member may elect in writing to cease making contributions to the retirement
81 system. If such election is made, such teacher shall notify his or her employer and the
82 board of trustees in such manner as the board of trustees shall prescribe. After giving the
83 required notice, the employer shall not thereafter deduct, and the employee shall not
84 thereafter be allowed to make, contributions to the retirement system from the salary or
85 compensation of such member;

86 (3) Any other provision of this or any other law to the contrary notwithstanding, a
87 member who has attained age 65 and who has completed 40 or more years of creditable
88 service may elect to continue to make contributions to the retirement system during such
89 continuous period of time as the member continues in service. He or she shall notify his
90 or her employer and the board of trustees of such election in such manner as the board
91 of trustees shall provide. Any member who has discontinued making contributions to the
92 retirement system because he or she has attained age 65 and has 40 years of creditable
93 service and who has continued in service may remit contributions to the board of trustees
94 at the rate required by law and under terms and regulations prescribed by the board of
95 trustees on all earnable compensation received by the member since deductions were
96 discontinued. Contributions made under this paragraph shall entitle the member to

- 97 creditable service for such period, but only for the purpose of determining average
 98 compensation over the highest consecutive years, used in the calculations of the
 99 retirement benefits of such member; and
- 100 (4) Employer deductions shall be made, notwithstanding that the minimum compensation
 101 provided for by law for any member shall be reduced thereby. Every member shall be
 102 deemed to consent and agree to the deductions and payment of salary or compensation,
 103 less such deductions, shall be a full and complete discharge and acquittance of all claims
 104 and demands whatsoever for the services rendered by such person during the period
 105 covered by such payment, except as to the benefits under this chapter.
- 106 (b) Notwithstanding subsection (a) of this Code section, no deductions shall be made from
 107 a member's salary if the employer's contribution as to such member is in default.
- 108 (c) The contributions withdrawn by a member or payable in the event of his or her death
 109 shall be paid from the annuity savings fund and any balance of the accumulated
 110 contributions standing to the credit of his or her individual account shall be transferred
 111 from the annuity savings fund to the pension accumulation fund.
- 112 (d) Upon the retirement of a member, his or her accumulated contributions shall be
 113 transferred from the annuity savings fund to the pension accumulation fund."

114 **SECTION 3.**

115 Said chapter is further amended by revising subsection (e) of Code Section 47-3-92, relating
 116 to absence from employment because of sick leave and creditable service, as follows:

117 "(e) The creditable service provided by this Code section shall be available only to ~~persons~~
 118 individuals who retire on or after July 1, 1998, but shall not apply to any individual who
 119 first becomes a member or who withdraws his or her accumulated contributions on or after
 120 July 1, 2019."

121 **SECTION 4.**

122 Said chapter is further amended by revising Code Section 47-3-101, relating to eligibility and
 123 application for retirement, retirement age, duration of benefits paid to a retired member, and
 124 payment to maintain Teachers Retirement System, as follows:

125 "47-3-101.

126 (a)(1) ~~Any~~ A member in service who first became a member prior to July 1, 2019, may
 127 retire upon written application to the board of trustees, provided that the member at the
 128 time of retirement:

129 (A) Has (1) has attained the age of 60 years and has at least ten years of creditable
 130 service; or

131 (B) Has (2) has at least 25 years of creditable service.

132 (2) The effective date of retirement will be the first of the month in which the application
 133 is received by the board of trustees; except that no retirement application will be effective
 134 earlier than the first of the month following the final month of the applicant's
 135 employment. Applications for retirement will not be accepted more than 180 days in
 136 advance of the effective date of retirement.

137 (3) Each employer shall certify to the board of trustees the date on which the employee's
 138 employment is or will be severed and that no agreement exists to allow the employee to
 139 return to service, including service as or for an independent contractor. Any return to
 140 employment or rendering of any paid service, including service as or for an independent
 141 contractor, for any employer during the calendar month of the effective date of retirement
 142 shall render the severance invalid and nullify the application for retirement.

143 (b) For purposes of this chapter, normal retirement age shall be:

144 (1) For an individual who first became a member prior to July 1, 2019, 60 years of age
 145 if the member has at least ten years of creditable service or the age of the member on the
 146 date he or she attains 30 years of creditable service, whichever event comes first; and

147 (2) For an individual who first becomes a member or who withdraws his or her
 148 accumulated contributions on or after July 1, 2019:

149 (A) The age at which such member's years of creditable service plus his or her age is
 150 equal to 85; or

151 (B) Sixty-two years of age if such member has at least ten years of membership
 152 service;

153 provided, however, that the provisions of this subsection shall be subject to change by
 154 future legislation in order to comply with federal regulations. Except as provided under
 155 Article 3 of Chapter 1 of this chapter, a member's right to his or her retirement allowance
 156 is nonforfeitable upon attainment of normal retirement age.

157 (c) The benefits payable under Code ~~Section~~ Sections 47-3-120 and ~~under Code Section~~
 158 47-3-122 shall be payable to the retired member for the remainder of his or her lifetime and
 159 shall be known as the maximum plan. Upon the death of the retired member, all monthly
 160 benefits shall cease as of the end of the month in which the retired member died. If the
 161 total monthly benefits paid at the time of the retired member's death are less than ~~his~~ the
 162 accumulated contributions at the time of his or her retirement, the difference between the
 163 benefits paid and such accumulated contributions shall be refunded to the person who has
 164 been designated in writing by the retired member or to the retired member's estate, if no
 165 such person has been designated or if such designated person has predeceased the retired
 166 member. This subsection shall not apply when an optional allowance has been selected by
 167 the member under Code Section 47-3-121.

168 (d) The board of trustees is authorized to provide by rule or regulation for the payment of
 169 benefits to members or beneficiaries of the retirement system at a time and under
 170 circumstances not provided for in this chapter to the extent that such payment is required
 171 to maintain the Teachers Retirement System of Georgia as a 'qualified retirement plan' for
 172 the purposes of federal income tax laws."

173 **SECTION 5.**

174 Said chapter is further amended by revising subsection (a) of Code Section 47-3-102, relating
 175 to early retirement after 30 years' service, time for application, and payment by member of
 176 actuarial cost, as follows:

177 "(a)(1) As used in this Code section, the term 'school year' means a regular school year
 178 which begins during or near September of one year and ends during or near June of the
 179 following year.

180 (2) This Code section shall not apply to an individual who first becomes a member or
 181 who withdraws his or her accumulated contributions on or after July 1, 2019."

182 **SECTION 6.**

183 Said chapter is further amended in Code Section 47-3-120, relating to allowance on service
 184 retirement, minimum retirement allowance, reduced allowance, increase, and computation
 185 of average compensation, by adding a new subsection to read as follows:

186 "(e) This Code section shall only apply to a member who first became a member prior to
 187 July 1, 2019. For a member who first becomes a member or who withdraws his or her
 188 accumulated contributions on or after July 1, 2019, Code Section 47-3-120.1 shall apply."

189 **SECTION 7.**

190 Said chapter is further amended by adding a new Code section to read as follows:

191 "47-3-120.1.

192 (a) Upon service retirement, a member who first becomes a member or who withdraws his
 193 or her accumulated contributions on or after July 1, 2019, shall receive an allowance which
 194 shall consist of:

195 (1) An annuity which shall be the actuarial equivalent of the member's accumulated
 196 contributions at the time of retirement; and

197 (2) An annual pension which, together with the annuity set forth in paragraph (1) of this
 198 subsection, shall provide a total allowance equal to 2 percent of the member's average
 199 compensation over the five consecutive years of membership service producing the
 200 highest such average, multiplied by the number of the member's years of creditable

201 service, not to exceed 40. The computation of average compensation for the purposes of
 202 this paragraph shall be subject to the requirements of subsection (b) of this Code section.
 203 (b) No more than two increases in compensation granted during the five consecutive years
 204 on which average compensation is based under paragraph (2) of subsection (a) of this Code
 205 section shall be considered in the computation of such average compensation, provided
 206 that:

207 (1) For those members who are not employees of the Board of Regents of the University
 208 System of Georgia, that part of any such increase in compensation which exceeds a
 209 percentage equal to the average annual increase in compensation granted to classroom
 210 teachers by appropriations of the General Assembly, plus 2.5 percent of compensation
 211 received at the time the annual increase granted by appropriations becomes effective,
 212 shall not be considered in the computation of average compensation; and

213 (2) For those members who are employees of the Board of Regents of the University
 214 System of Georgia, that part of any such increase in compensation which exceeds a
 215 percentage equal to the average annual increase in compensation granted to academic
 216 personnel employed by such board of regents by appropriations of the General Assembly,
 217 plus 2.5 percent of compensation received at the time the annual increase granted by
 218 appropriations becomes effective, shall not be considered in the computation of average
 219 compensation."

220 **SECTION 8.**

221 Said chapter is further amended by revising Code Section 47-3-126, relating to
 222 postretirement benefit adjustments, as follows:

223 "47-3-126.

224 (a) The board of trustees is authorized to adopt a method of providing postretirement
 225 benefit adjustments for a beneficiary in his or her postretirement years. Such method of
 226 adjustment may result in the adoption by the board of trustees of a method of financing
 227 other than that described in paragraphs (1) through (3) of Code Section 47-3-43 and shall
 228 be based upon:

229 (1) Recommendation of the actuaries for the board of trustees; and

230 (2) Maintaining the actuarial soundness of the system.

231 The board of trustees may specify a minimum age which a beneficiary must have attained
 232 in order to be eligible for the postretirement benefit adjustment.

233 (b)(1) Notwithstanding subsection (a) of this Code section, a beneficiary who first
 234 becomes a member or who withdraws his or her accumulated contributions on or after
 235 July 1, 2019, shall not receive a postretirement benefit adjustment more than once
 236 annually and such adjustment shall not exceed the lesser of 3 percent or the prior year's

237 annualized rate of inflation as determined by the board of trustees in accordance with
238 generally accepted economic principles.

239 (2) The decision on whether to allow the adjustment permitted by paragraph (1) of this
240 subsection shall be based upon:

241 (A) Recommendation of the actuaries for the board of trustees; and

242 (B) Maintaining the actuarial soundness of the retirement system.

243 (3) An individual who retires pursuant to subparagraph (A) of paragraph (2) of
244 subsection (b) of Code Section 47-3-101 shall not receive a postretirement adjustment for
245 at least three years after his or her retirement."

246 **SECTION 9.**

247 This Act shall become effective upon its approval by the Governor or upon its becoming law
248 without such approval.

249 **SECTION 10.**

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