

Senate Bill 175

By: Senators Black of the 8th, Hufstetler of the 52nd, Robertson of the 29th, Hill of the 4th, Davenport of the 44th and others

AS PASSED SENATE

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 employed beneficiaries; to provide for related matters; to
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

13 "47-3-127.

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

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

19 (2) Not to reinstate his or her membership in the retirement system, in which case his or
20 her retirement benefits shall be suspended during the period of time he or she is restored
21 to service. Upon cessation of such service, his or her prior retirement allowance shall be
22 resumed.

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

25 (b)(1) ~~Any~~ ~~Anything in this chapter to the contrary notwithstanding,~~ any prior service
26 certificate, on the basis of which a member's creditable service was computed at the time

27 of his or her retirement, shall be restored to full force and effect upon his or her
 28 restoration to service.

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

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

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

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

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

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

53 (d) ~~Anything in this chapter to the contrary notwithstanding, a beneficiary may elect to~~
 54 ~~return to service on an hourly basis as a classroom aide, provided such service is less than~~
 55 ~~full time, or as a substitute teacher without reinstating his membership in the system. If~~
 56 ~~such election is made, he shall continue to receive his retirement benefits and any~~
 57 ~~postretirement benefit adjustments granted, if any, during such part-time service. Such~~
 58 ~~part-time service shall not constitute creditable service and such beneficiary shall not be~~
 59 ~~entitled to a recomputation of retirement benefits upon a cessation of part-time service.~~

60 (e)(1) A beneficiary of this retirement system shall be deemed to be restored to service
 61 within the meaning of this Code section if, ~~except as otherwise provided in Code Section~~
 62 ~~47-3-127.1,~~ such beneficiary is employed by an employer:

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

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

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

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

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

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

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

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

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

85 (4)(A) It shall be the duty of a beneficiary of this retirement system to notify an
 86 employer of his or her status as a beneficiary prior to accepting employment with that
 87 employer.

88 (B) If a beneficiary fails to so notify an employer and as a result the employer becomes
 89 obligated to this retirement system pursuant to paragraph (2) or (3) of this subsection,
 90 the beneficiary shall be liable to the employer for any amount the employer is obligated
 91 to pay to this retirement system.

92 (5) If an employer who is obligated to this retirement system pursuant to paragraph (2)
 93 or (3) of this subsection fails to pay the amount due, such amount shall be deducted from
 94 any funds payable to the employer by the state, including without limitation the
 95 Department of Education and the board of regents, and paid to the board of trustees of
 96 this retirement system.

97 47-3-127.1.

98 (a) Notwithstanding anything in this chapter to the contrary, a beneficiary may elect to
 99 return to service without becoming a contributing member of the retirement system as a:

100 (1) Classroom aide who works less than full-time and is compensated on an hourly basis;
 101 or
 102 (2) Substitute teacher.

103 (b) Under the conditions described in subsection (a) of this Code section, he or she shall
 104 remain a beneficiary and continue to receive his or her retirement allowance and any
 105 postretirement benefit adjustments for which he or she is eligible.

106 (c) Such part-time service shall not constitute creditable service, and such beneficiary shall
 107 not be entitled to a recomputation of retirement benefits upon a cessation of such part-time
 108 service.

109 47-3-127.2.

110 (a) An employer that directly or indirectly remunerates a beneficiary who is not a
 111 contributing member of the retirement system shall pay to the retirement system an amount
 112 equal to the product of:

113 (1) The combination of the rate required by this chapter for employer contributions and
 114 employee contributions; and

115 (2) The remuneration made to such beneficiary.

116 (b) An individual shall not receive creditable service as a result of employment described
 117 in subsection (a) of this Code section, and he or she shall be considered by the retirement
 118 system solely as a beneficiary.

119 (c) It shall be the duty of each beneficiary to notify an employer of his or her status as a
 120 beneficiary prior to accepting employment with an employer.

121 (d) Within 30 days of an employer's employment of a beneficiary, such employer shall
 122 notify the board of trustees of such beneficiary's name, salary, number of hours, and such
 123 other information as the board of trustees may require.

124 (e) If an employer that is obligated to make contributions or reimbursements to the
 125 retirement system pursuant to this Code section does not make such contributions, unpaid
 126 amounts shall be deducted from any funds payable to the employer by the state, including
 127 without limitation the Department of Education and the board of regents, and paid to the
 128 retirement system."

129 **SECTION 2.**

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