House Bill 227 (COMMITTEE SUBSTITUTE)

By: Representatives Purcell of the 147th, Birdsong of the 123rd, Walker of the 141st, Shanahan of the 10th, Cummings of the 27th and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to create the Georgia Military Pension Fund; to define certain terms; to provide for a board of trustees; to provide for powers and duties of the board; to provide for the administration of the fund; to provide for membership in the fund; to provide for employer contributions; to provide for service creditable toward retirement; to provide for conditions precedent to retirement; to provide for pension benefits; to provide a penalty for certain fraudulent acts; to provide for matters relative to the foregoing; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is amended by adding at the end thereof a new Chapter 24 to read as follows:

″CHAPTER 24

ARTICLE 1

47-24-1.

As used in this chapter, the term:

(1) 'Board' means the Board of Trustees of the Employees´ Retirement System of Georgia.

(2) 'Creditable service' means prior service, membership service, and other service for which credit is allowed toward retirement under this chapter.

(3) 'Date of establishment' means July 1, 2002.

(4) 'Employer' means the State of Georgia.

(5) 'Fund' means the Georgia Military Pension Fund.

(6) 'Member' means any person included in the membership of the fund.

(7) 'Membership service' means service as a member of the fund.

(8) 'Prior service' means service rendered prior to July 1, 2002, as a member of the Georgia National Guard.

(9) 'Retirement allowance' means monthly payments for life pursuant to Code Section 47-24-101.

ARTICLE 2

47-24-20.

(a) A pension fund is created and placed under the administration of the Board of Trustees of the Employees´ Retirement System of Georgia to provide retirement allowances and other benefits for members of the Georgia National Guard. The pension fund shall begin operation as of July 1, 2002.

(b) The fund shall have the power and privileges of a corporation and shall be known as the Georgia Military Pension Fund. By such name all of its business shall be transacted, all of its funds shall be invested, and all of its cash, securities, and other property shall be held.

47-24-21.

There is created an office to be known as the executive secretary of the Georgia Military Pension Fund. The director of the Employees´ Retirement System of Georgia shall serve as executive secretary of this fund.

47-24-22.

(a) The general administration and responsibility for the proper operation of the fund and for putting this chapter into effect are vested in the board.

(b) The board shall engage such actuarial and other services as shall be required to transact the business of the fund.

(c) The board shall designate an actuary who shall be the technical adviser of the board on matters regarding the operation of the fund and shall perform such other duties as are required in connection therewith.

(d) At least once in each five-year period following the date of establishment, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members of the fund and shall make a valuation of the contingent assets and liabilities of the fund. The board, after taking into account the results of such investigation and valuation, shall adopt for the fund such mortality, service, and other tables as shall be deemed necessary.

(e) On the basis of regular interest and tables adopted by the board, the actuaries shall make valuations of the contingent assets and liabilities of the fund at least once every three years.

(f) The board shall keep in convenient form such data as shall be necessary for the actuarial valuations of the contingent assets and liabilities of the fund and for checking the experience of the fund.

(g) The board shall determine, from time to time, the rate of regular interest for use in all calculations, with the rate of 4 percent per annum applicable unless changed by the board.

(h) Subject to the limitations of this chapter, the board shall, from time to time, establish rules and regulations for the administration of the fund and for the transaction of business.

(i) The board shall keep a record of all of its proceedings under this chapter, which record shall be open to the public.

(j) All persons employed by the board and the expenses of the board shall be paid from funds appropriated by the General Assembly.

47-24-23.

(a) The board members shall be the trustees of the funds of the fund; may invest and reinvest such funds; and may hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the moneys of the fund created under this chapter shall have been invested, as well as the proceeds of such investments and any moneys belonging to such fund, all in such manner as funds of the Employees´ Retirement System of Georgia are invested and reinvested.

(b) Except as otherwise provided for in this chapter, no member or person employed by the board shall have a direct interest in the gains or profits of any investment made by the board. No member or employee of the board shall, directly or indirectly, for himself or herself or as an agent, in any manner use the funds of the fund except to make such current and necessary payments as are authorized by the board; nor shall any member or employee of the board become an endorser, surety, or in any manner an obligor for moneys loaned or borrowed from the board.

(c) The board shall be the custodian of the funds of the fund. All payments from such funds shall be made by the board only upon vouchers signed by two persons designated by the board.

47-24-24.

The accumulation account shall be the account in which all reserves for the payment of the part of all retirement allowances and other benefits payable from contributions made by the employer shall be held and from which all retirement allowances payable under the fund

and the administrative expenses shall be paid. All interest and dividends earned on the funds of the fund shall be credited to the accumulation account.

ARTICLE 3

47-24-40.

All persons who are members of the Georgia National Guard on July 1, 2002, shall become members of the fund as of such date. All other persons shall become members of the fund on first becoming a member of the Georgia National Guard.

ARTICLE 4

47-24-60.

The employer contributions toward the cost of the fund shall be as actuarially determined and approved by the board and, in making such determination, the adjutant general of the state shall supply the board with such information at such times and in such manner as the board shall specify by rules and regulations. The amounts determined as the employer contributions shall be certified to the Office of Treasury and Fiscal Services at such times as the board shall specify by rules and regulations. It shall be the duty of the director of the Office of Treasury and Fiscal Services to pay to the board, from funds appropriated or otherwise available to the fund, the amounts certified by the board. All employer contributions shall be irrevocable and may be used only for the exclusive benefit of members.

ARTICLE 5

47-24-80.

The creditable service of a member shall include all established creditable prior service, service as a member of the Georgia National Guard since he or she became a member of the fund, and such other service as may be allowed as creditable service pursuant to this article.

47-24-81.

In addition to the creditable service allowed pursuant to Code Section 47-24-80, any member shall receive creditable service for any past service as a member of the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Marine Corps, Air Force, Air Force Reserve, Air National Guard, and Coast Guard if such service meets

the same requirement for creditable time served as set forth for nonregular service retirement under Chapter 67 of Title 10 of the United States Code.

47-24-82.

(a) Any provision of this article to the contrary notwithstanding, no service which is used to qualify a member for a retirement or pension benefit based on length of service, age, or physical disability from any of the regular components of the United States armed forces, including without limitation service in the active guard status, shall be used as creditable service under this pension fund.

(b) Except as provided in subsection (a) of this Code section, no provision in this chapter shall be construed as to affect or preclude any benefits to which a member may be entitled under any federal or private retirement or pension plan or any retirement or pension fund governed by this title.

ARTICLE 6

47-24-100.

(a) Upon the written application to the board, any member of the fund who:

(1) Has attained the age of 60 years;

(2) Has completed 20 or more years of creditable service, at least 15 of which were service as a member of the Georgia National Guard;

(3) Served at least ten consecutive years as a member of the Georgia National Guard immediately before discharge; and

(4) Has received an honorable discharge from the Georgia National Guard

shall be retired by the board on a retirement allowance and shall thereupon become a beneficiary of the fund.

(b) The effective date of retirement shall be the first day of the month in which the application is received by the board, but such effective date shall not, in any case, be earlier than the first day of the month following the month of the applicant´s discharge from the Georgia National Guard. Applications for retirement shall not be accepted more than 90 days in advance of the date of discharge.

47-24-101.

Upon retirement under subsection (a) of Code Section 47-24-100, the retired member shall receive a monthly service retirement allowance of $50.00 plus an additional $5.00 per month for each year of creditable service over 20 years, up to a maximum monthly benefit of $100.00.

47-23-102.

All retirement allowances shall be paid in monthly payments and shall cease in the month in which the death of the member occurs.

47-24-103.

If any retired member returns to the service of the Georgia National Guard, his or her retirement allowance shall cease. Upon cessation of such service, the retired member, after proper notification to the board, shall receive a retirement allowance calculated according to the number of years of creditable service the member has accumulated at the end of such return to service.

ARTICLE 7

47-24-120.

Any person who knowingly makes any false statements or falsifies or permits to be falsified any records of the fund in any attempt to defraud the fund, as a result of such an act, shall be guilty of a misdemeanor and, on conviction, shall be punished by a fine not to exceed $500.00, imprisonment not to exceed 12 months, or both.

47-24-121.

If any change or error in the records results in any member or beneficiary receiving from the fund more or less than he or she would have been entitled to receive had the records been correct, the board shall have the power to correct such error and to adjust the payments as far as practicable in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

47-24-122.

The benefits provided under this chapter shall not be a part of any contract and shall be subject to future legislation.″

SECTION 2.

This Act shall become effective on July 1, 2002, only if it is determined to have been concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not become effective and shall be automatically repealed in its entirety on July 1, 2002, as required by subsection (a) of Code Section 47-20-50.

SECTION 3.

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