Senate Bill 41

By: Senators Hufstetler of the 52nd, Jackson of the 2nd and Summers of the 13th

A BILL TO BE ENTITLED

AN ACT

To amend Titles 47 and 48 of the Official Code of Georgia Annotated, relating to retirement and pensions and revenue and taxation, respectively, so as to create the Tax Commissioners Retirement Fund of Georgia; to provide for a board; to provide for appointments and officers; to provide for powers and duties; to provide for eligibility, membership, dues, and benefits; to provide for a charge on delinquent or defaulted tax notices; to provide for the collection and remittance of such amounts; to provide for refunds of contributions with interest; to provide for conditions; to provide for definitions; to provide that a portion of title ad valorem tax fees, penalties, and interest shall be remitted to the retirement fund instead of the county general fund; to provide for related matters; 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 a new chapter to read as follows:

″CHAPTER 26

ARTICLE 1

47-26-1.

As used in this chapter, the term:

(1) 'Board' means the Board of Commissioners of the Tax Commissioners Retirement Fund of Georgia.

(2) 'Full-time tax commissioner' means a tax commissioner, tax collector, or tax receiver who regularly exercises the powers of a tax commissioner and is elected as set forth in Code Section 48-5-210 or is appointed to such office.

(3) 'Fund' means the Tax Commissioners Retirement Fund of Georgia.

(4) 'Member' means a member of the Tax Commissioners Retirement Fund of Georgia.

(5) 'Secretary-treasurer' means the secretary-treasurer of the Board of Commissioners of the Tax Commissioners Retirement Fund of Georgia.

ARTICLE 2

47-26-20.

(a) There is created the Board of Commissioners of the Tax Commissioners Retirement Fund of Georgia. The board shall consist of seven members as follows:

(1) The Governor or the Governor's designee;

(2) An appointee of the Governor who is not the Attorney General;

(3) Four full-time tax commissioners who are members of the fund and who represent four counties that do not share a border with any of each others' counties; and

(4) One retired tax commissioner.

(b)(1) The member of the board provided for by paragraph (4) and two of the four members of the board provided for by paragraph (3) of subsection (a) of this Code section

shall be appointed by the Governor. The initial members shall be appointed by the Governor to take office on July 1, 2022, for terms of office as follows: one of the members provided for by paragraph (3) of subsection (a) of this Code section shall be appointed for a term of one year and one such member shall be appointed for a term of three years; and the member provided for by paragraph (4) of subsection (a) of this Code section shall be appointed for a term of two years. Thereafter, the Governor shall appoint successors upon the expiration of the respective terms of office for terms of three years. All such members shall serve until their successors are appointed and qualified. Such members shall be eligible for reappointment to successive terms of office as members of the board.

(2) Two of the members of the board provided for by paragraph (3) of subsection (a) of this Code section shall be appointed by the Lieutenant Governor. The initial members shall be appointed by the Lieutenant Governor to take office on July 1, 2022, for terms of office as follows: one of the members provided for by paragraph (3) of subsection (a) of this Code section shall be appointed for a term of two years and one such member shall be appointed for a term of three years. Thereafter, the Lieutenant Governor shall appoint successors upon the expiration of the respective terms of office for terms of three years. All such members shall serve until their successors are appointed and qualified. Such members shall be eligible for reappointment to successive terms of office as members of the board.

(c) The board shall elect a chairperson from among its own membership to serve for a term as established by rules of the board. Four members of the board shall constitute a quorum for the transaction of business. All members of the board shall serve without compensation but may be reimbursed for travel and other expenses incurred by them in carrying out their duties as members of the board.

(d) In the event of a vacancy in the membership of the board, the remaining members of the board shall appoint a full-time tax commissioner who is a member of the fund or an

individual receiving benefits pursuant to Code Section 47-26-80 to fill such vacancy for the unexpired term.

(e) The Georgia Association of Tax Officials shall be authorized to submit the names of nominees for each position on the board appointed by the Governor or Lieutenant Governor pursuant to this Code section. The Governor or Lieutenant Governor may consider such nominees in making such appointments, but it is specifically provided that all such appointments shall be at the sole discretion of the Governor or Lieutenant Governor, and the Governor or Lieutenant Governor shall not be required to make any appointments from nominees made by the Georgia Association of Tax Officials.

47-26-21.

(a)(1) There is created the office of secretary-treasurer of the board. The secretary-treasurer shall be elected and appointed by the board and shall serve at the pleasure of the board. His or her compensation and duties shall be fixed by the board. In addition to such salary, the secretary-treasurer shall receive credit for a sum of $105.00 per month of service as the secretary-treasurer as dues in the retirement system.

(2) The board or the secretary-treasurer with the approval of the board may employ additional personnel to assist the board or secretary-treasurer in carrying out duties provided in this chapter. The compensation and duties of any such personnel shall be fixed by the board.

(b) The secretary-treasurer shall be paid retirement benefits upon retiring after at least eight years of service as the secretary-treasurer as provided in Article 5 of this chapter for a full-time tax commissioner retiring with the highest benefit allowed by such article and shall be entitled to any retirement option allowed by such article.

(c) The board shall have authority to require the secretary-treasurer to give a good and sufficient surety bond in an amount to be determined by the board. The bond shall be payable to the board and shall be conditioned upon the proper and faithful performance of

the duties of the secretary-treasurer. The secretary-treasurer shall be required to make quarterly reports to the board, which reports shall show all receipts and disbursements in such form and in such manner as the board may require. He or she shall likewise be required quarterly to make a full account of all moneys or property coming into his or her hands on behalf of the board at any time.

47-26-22.

(a) The board is granted the following powers and duties:

(1) To provide for the collection of all moneys provided in this chapter;

(2) To pay the administrative expenses of the board;

(3) To hear and decide all applications for retirement benefits under this chapter;

(4) To make payment of all retirement benefits that may be determined to be due under the terms of this chapter;

(5) To make all necessary rules and regulations, not inconsistent with the laws of the state, for its government and for the government of the employees of the board;

(6) To determine and fix rules of eligibility of persons to receive retirement benefits;

(7) To make refunds and repayments to persons who may be entitled to receive them; and

(8) To keep all records of its meetings.

(b) The board shall also have all powers necessary for the purpose of administering this chapter.

(c)(1) Subject to the terms and limitations of this subsection, the board is authorized to adopt from time to time a method or methods of providing for increases in the maximum monthly retirement benefit payable under Article 5 of this chapter for persons theretofore or thereafter retiring under this chapter. Such method shall be based upon:

(A) The recommendation of the actuary of the board;

(B) The maintenance of the actuarial soundness of the fund in accordance with the standards provided in Code Section 47-20-10 or such higher standards as may be adopted by the board; and

(C) Such other factors as the board deems relevant.

Any such increase may be uniform or may vary in accordance with the time of retirement, length of service, age, nature of the retirement, or such other factors as the board shall determine. No benefit increase shall be awarded under this paragraph greater than 1.5 percent in any six-month period.

(2) No member shall receive a benefit increase under paragraph (1) of this subsection in any year in which he or she realizes a benefit increase by operation of Code Section 47-26-81.

47-26-23.

(a) The board shall have control of all funds provided for in this chapter and all funds shall be received and disbursed from a special account to the credit of the board. The expenses of administering this fund and the benefits provided for in this chapter shall be paid from such funds. The board shall have authority to expend the funds in accordance with this chapter.

(b) The board shall have full power to invest and reinvest such funds, subject to all the terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of this title, the 'Public Retirement Systems Investment Authority Law.' Subject to such terms, conditions, limitations, and restrictions, the board shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds are invested, including the proceeds of any investments and any money belonging to the fund.

(c) The board is authorized to employ agents, including, but not limited to, banks or trust departments thereof, and to contract with such agents for their services as investment

advisers and counselors, making recommendations for investments and making investments if the board so authorizes.

47-26-24.

The board may take, by gift, grant, or bequest, any money, real or personal property, or any other thing of value and may hold or invest it for the use and purposes of the fund in accordance with this chapter.

47-26-25.

The board shall keep permanent records of all persons who qualify to participate in the benefits of this chapter, an accurate record of all payments and disbursements, and a detailed record of all the acts and doings of the board.

47-26-26.

The state auditor is authorized and directed to make an annual audit of the acts and doings of the board and to make a complete report of the same to the General Assembly in such detail as he or she may see fit. The state auditor shall also have the right to audit the affairs of the board and any of its employees at any time that he or she may see fit or at any time that he or she may be requested to do so by the board or by the Governor.

ARTICLE 3

47-26-30.

(a) Before any person shall be eligible to participate in the fund, he or she must be serving:

(1) As the secretary-treasurer; or

(2) As a duly qualified and commissioned full-time tax commissioner of a county of the State of Georgia who agrees in writing to the board to pay his or her dues in accordance

with Code Section 47-26-40 and to charge, collect, and remit the amounts set forth in Code Section 47-26-41.

(b) Any qualified person who desires to participate in the fund shall make application to the board for membership in the fund on a form to be furnished by the board for that purpose, giving such information, together with verification and proof thereof, as may be required by the board. Such application shall be made not later than July 1, 2023, or within 12 months after becoming eligible for membership, whichever is later.

ARTICLE 4

47-26-40.

Each member shall pay into the fund as dues the sum of $105.00 per month. Each month's dues shall be paid not later than the tenth day of that month.

47-26-41.

(a) In addition to all other taxes, penalties, interest, fees, costs, commissions, and compensation, each county tax commissioner shall charge and collect 50¢ on each delinquent tax bill, excluding those for motor vehicles.

(b) The clerks of the county tax commissioners shall collect all funds provided for in subsection (a) of this Code section and paragraph (2) of subsection (c) of Code Section 48-5C-1; such funds shall be remitted to the board on a monthly basis or at such time and in such manner as the board may provide. It shall be the duty of the county tax commissioners to keep accurate records of the amounts due the board under this Code section and such records may be audited by the board at any time. The sums remitted to the board under this Code section shall be used for the purposes provided in this chapter.

47-26-42.

A member shall only receive creditable service in the fund for each month that he or she timely pays the dues required by Code Section 47-26-40 and timely charges and collects the amounts due to the board pursuant to Code Section 47-26-41.

47-26-43.

(a) A member shall not earn more than 20 years of creditable service in the fund.

(b) A member who earns 20 years of creditable service in the fund shall no longer be required to pay the dues required by Code Section 47-26-40; however, he or she shall be required to continue to charge and collect the amounts required by Code Section 47-26-41. The board shall be authorized to reduce a member's retirement benefit under this chapter due to his or her failure to comply with subsection (a) of Code Section 47-26-41.

ARTICLE 5

47-26-80.

In order for a member to be eligible to receive retirement benefits under this chapter, he or she must have:

(1) Earned at least 96 months of creditable service in the fund;

(2) Fully complied with this chapter;

(3) Terminated his or her official capacity as a full-time tax commissioner or as the secretary-treasurer;

(4) Attained the age of 60 years;

(5) Filed with the board his or her application for such retirement, on a form to be furnished by the board, within a period of 90 days, or as soon thereafter as possible, after reaching the age of 60 years or after termination of his or her official capacity as a

full-time tax commissioner or as the secretary-treasurer, whichever may occur last in point of time; and

(6) Had his or her application for retirement approved by the board.

47-26-81.

(a) Any member who is approved for retirement benefits as provided in Code Section 47-26-80 shall be paid a monthly sum equal to $12.00 for each month of creditable service in the fund, provided that the annual amount of retirement benefits paid from the fund to a member shall not exceed $34,560.00; provided, however, that the board shall be authorized to adopt from time to time a method or methods of providing for increases in the monthly benefit and the maximum annual benefit paid from the fund as provided in this Code section. Such method or methods shall be based upon:

(1) The recommendation of the actuary of the board;

(2) The maintenance of the actuarial soundness of the fund in accordance with the standards provided in Code Section 47-20-10 or such higher standards as may be adopted by the board; and

(3) Such other factors as the board deems relevant; provided, however, that any such increase shall be uniform and shall apply equally to all members.

(b) No time for which a member has not earned creditable service in accordance with this chapter shall be considered in calculating the retirement benefits allowed by this Code section.

47-26-82.

(a) As used in this Code section, the term 'surviving spouse' means the person who was married to a member on the date of the member's death.

(b) Upon the death of any member who is then receiving retirement benefits and upon the surviving spouse of such member attaining 60 years of age, said spouse shall be paid

spouse's benefits which shall be equal to 50 percent of the retirement benefits then being paid to such member. Such benefits shall be paid for the remainder of the life of such surviving spouse.

(c) Upon the death of any member prior to retirement, the surviving spouse of such member may elect:

(1) To withdraw the dues paid into the retirement fund by the deceased member plus interest at the rate of 5 percent per annum, in which case the spouse shall be deemed to have waived any right to any benefits; or

(2) To leave such dues in the retirement fund and to receive spouse's benefits which shall be payable beginning:

(A) On the date of the member's death, if such member is 60 years of age or older; or

(B) On the date on which the surviving spouse of the deceased member reaches 60 years of age,

whichever event occurs last, and which shall be equal to 50 percent of the retirement benefits which the deceased member was drawing at the time of death or, in the case of a member who dies prior to his or her sixtieth birthday, which such deceased member would have been entitled to receive upon reaching 60 years of age had he or she lived and ceased service as a full-time tax commissioner or the secretary-treasurer on the date of his or her death.

(d) A member who is unmarried may designate a survivor to the board in writing. If a member is married, the member may elect a designated survivor other than his or her spouse to the board in writing only with the written agreement of the spouse. In any event, the designated survivor shall be a person with whom the member has a familial relationship through blood, marriage, or adoption. The designated survivor elected pursuant to this subsection shall be entitled to a survivor's benefit which is the actuarial equivalent to a surviving spouse's benefit as provided in subsection (b) of this Code section.

47-26-83.

(a) Any member, after ceasing to serve as a full-time tax commissioner or as the secretary-treasurer and after waiving any right to retirement benefits in writing on a form to be provided by the board, may apply for and be refunded all dues paid, together with 5 percent simple interest per annum from the end of the calendar year in which paid to the end of the calendar year next preceding the application for the refund.

(b) Although retirement pay shall be based on Code Section 47-26-81 and nothing in this Code section shall be construed to alter same, at the effective date of retirement, simple interest at a rate of 5 percent per annum shall be computed on all dues paid from the end of the calendar year in which paid to the end of the calendar year immediately preceding the date of retirement and shall be added to the total dues paid. After all retirement benefits coming due under Code Section 47-26-81 have been paid and if the total thereof shall not be equal to or exceed the above total of dues and interest, then the balance of such principal and interest shall be paid to the estate of the deceased member.

(c) Upon application by the estate of any member who dies prior to retirement and who does not have a surviving spouse who is eligible for benefits under Code Section 47-26-82, all dues paid by such deceased member, together with 5 percent simple interest per annum from the end of the calendar year in which paid to the end of the calendar year next preceding the application for the refund, shall be paid to the estate of the deceased member.

(d) No dues may be refunded except in strict compliance with this Code section or Code Section 47-26-82.

47-26-84.

Notwithstanding any other provisions of this chapter to the contrary, a member may retire after completing four years of creditable service if he or she becomes totally and permanently disabled after commencing service as a full-time tax commissioner or as the secretary-treasurer. Any such member shall be entitled to receive retirement benefits in the

amount that he or she would receive if his or her retirement were effective at the time he or she became disabled. All questions relating to the degree and nature of the total and permanent disability suffered by the member shall be determined by the board.

47-26-85.

Membership in this retirement fund shall not be affected by membership or participation in any other fund or retirement system. There shall be no reduction in benefits predicated solely upon eligibility of the member to benefits from another independent source of retirement or pension. The benefits under this chapter are to be in addition to any other retirement benefits. There shall be no reduction in benefits otherwise payable to any member under any other state or quasi-state sponsored or sanctioned fund or retirement system because of membership and participation in this retirement fund.

ARTICLE 6

47-26-100.

If the board determines that the funds derived from the sources provided for in this chapter are not actuarially sufficient at any time to enable the board to pay in full each person determined to be entitled to the benefits provided for in this chapter, plus all contingent and other liabilities, then a prorated percentage of such payments shall be made to each person entitled thereto until the funds shall be replenished actuarially sufficient to enable the board to resume such payments in accordance with the terms of this chapter. In no event shall the board or any member thereof be liable to any person for any deficiency in payments made under this Code section.

47-26-101.

None of the funds provided for in this chapter shall be subject to attachment, garnishment, or judgment rendered against the person entitled to receive the same. Such funds shall not be assignable."

SECTION 2.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising paragraph (2) of subsection (c) of Code Section 48-5C-1, relating to the alternative ad valorem tax on motor vehicles, definitions, exemption from taxation, allocation and disbursement of proceeds collected by tag agents, fair market value of vehicle appealable, and reports, as follows:

"(2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall be disbursed within 20 days following the end of each calendar month as follows:

(A) State title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest shall be remitted to the state revenue commissioner who shall deposit such proceeds in the general fund of the state less an amount to be retained by the tag agent not to exceed 1 percent of the total amount otherwise required to be remitted under this subparagraph to defray the cost of administration. ~~Such~~ Twenty percent of such retained amount shall be remitted to the Tax Commissioners Retirement Fund of Georgia in accordance with subsection (b) of Code Section 47-26-41, and the remainder shall be remitted to the collecting county's general fund. Failure by the tag agent to disburse within such 20 day period shall result in a forfeiture of such administrative fee plus interest on such amount at the rate specified in Code Section 48-2-40; and

(B) Local title ad valorem tax fees, administrative fees, penalties, and interest shall be designated as local government ad valorem tax funds. The tag agent shall then distribute the proceeds as specified in paragraph (3) of this subsection, less an amount

to be retained by the tag agent not to exceed 1 percent of the total amount otherwise required to be remitted under this subparagraph to defray the cost of administration. ~~Such~~ Twenty percent of such retained amount shall be remitted to the Tax Commissioners Retirement Fund of Georgia in accordance with subsection (b) of Code Section 47-26-41, and the remainder shall be remitted to the collecting county's general fund. Failure by the tag agent to disburse within such 20 day period shall result in a forfeiture of such administrative fee plus interest on such amount at the rate specified in Code Section 48-2-40.″

SECTION 3.

This Act shall become effective on July 1, 2022, 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, 2022, as required by subsection (a) of Code Section 47-20-50.

SECTION 4.

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