

Senate Bill 209

By: Senators Goodman of the 8th, Williams of the 25th, Echols of the 49th, Parent of the 44th, Hickman of the 4th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and
2 pensions, so as to permit certain persons who would otherwise be required to be members
3 of the Public School Employees Retirement System to make an irrevocable election to
4 become members of the Teachers Retirement System of Georgia; to provide for conditions;
5 to prohibit transfers of creditable service; to provide for related matters; to provide conditions
6 for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
10 amended in Chapter 3, relating to the Teachers Retirement System of Georgia, by revising
11 paragraph (28) of Code Section 47-3-1, relating to definitions, as follows:

12 "(28) 'Teacher' means a permanent status employee employed not less than half time as
13 follows:

14 (A) Employees of a public school or a local board of education with the exception of
15 those employees required to be members of the Public School Employees Retirement
16 System as governed by Chapter 4 of this title;

(B) Public school lunchroom managers or supervisors, maintenance managers or supervisors, transportation managers or supervisors, and warehouse managers or supervisors who elect to participate in the retirement system pursuant to Code Section 47-3-63;

(C) Employees of the Board of Regents of the University System of Georgia with the exception of those employees who elect to participate in the Regents Retirement Plan as governed by Chapter 21 of this title and maintenance and custodial employees employed prior to July 1, 1978, who elected to forgo membership;

(D) Employees of any regional educational service agency created pursuant to Part 11 of Article 6 of Chapter 2 of Title 20;

(E) Certified professional personnel employed for the first time by the Department of Education on and after July 1, 1983, unless such personnel elect membership in the Employees' Retirement System of Georgia pursuant to subsection (h) of Code Section 47-3-60, and any employee of the Department of Education employed in a teaching, supervisory, or clerical capacity;

(F) Certified professional personnel employed by the Department of Education and who become members of this retirement system pursuant to the authority of subsection (i) of Code Section 47-3-60;

(G) Professional personnel employed for the first time by the Technical College System of Georgia on and after July 1, 1985, and all nonprofessional personnel employed for the first time after July 1, 1987, by postsecondary vocational-technical schools governed by the Technical College System of Georgia if otherwise eligible under laws, rules, and regulations, unless such personnel elect membership in the Employees' Retirement System of Georgia pursuant to subsection (j) of Code Section 47-3-60;

(H) Personnel employed by the Department of Education who are authorized to elect and elect to become or remain members of the retirement system pursuant to the applicable provisions of Code Section 47-3-60;

(I) Employees of any school operated by the Department of Education; ~~and~~

(J) Librarians and clerical personnel employed by regional and county libraries. Any of such librarians and clerical personnel who were members of a local retirement system on January 1, 1977, and who elected to remain members of such local retirement system shall not be required to become members of this retirement system, or if they were members of this retirement system on that date, they may withdraw from such membership. This election must have been made, in writing, to the board of trustees by not later than January 1, 1978. Any of such librarians and clerical personnel failing to so notify the board of trustees by that date shall be members of this retirement system; and

(K) Any person who would have been a member of the Public School Employees Retirement System established under Chapter 4 of this title, except that he or she made an irrevocable election to participate in this retirement system pursuant to the provisions of Code Section 47-3-69 and subsection (f) or (g) of Code Section 47-4-40.

The term 'teacher' shall not be deemed to include any emergency or temporary employee. The term 'teacher' shall not include an individual classified by an employer as an independent contractor or a leased employee within the meaning of Section 414(n) of the federal Internal Revenue Code, even if such individual is later reclassified by the Internal Revenue Service as a common law employee. The board of trustees shall determine in doubtful cases whether any person is included within the definition set forth in this paragraph."

SECTION 2.

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

"47-3-69.

(a) Each eligible person who makes an irrevocable election to become a member of this retirement system pursuant to subsection (f) or (g) of Code Section 47-4-40 shall become a member of this retirement system subject to the provisions of this chapter at such time except as provided otherwise in this Code section or subsection (f) or (g) of Code Section 47-4-40. Upon becoming a member, he or she shall begin making the employee contributions required by Code Section 47-3-40, his or her employer shall begin making the employer contributions required by paragraph (1) of Code Section 47-3-43, and the state shall pay its share as required by paragraph (2) of Code Section 47-3-43.

(b) No person who becomes a member of this retirement system pursuant to subsection (f) or (g) of Code Section 47-4-40 shall be eligible for any creditable service in this retirement system other than actual membership service and military creditable service pursuant to Code Section 47-1-62."

SECTION 3.

Said title is further amended in Chapter 4, relating to the Public School Employees Retirement System, by revising paragraph (20) of Code Section 47-4-2, relating to definitions, as follows:

"(20) 'Public school employee' or 'employee' means:

(A) All ~~all~~ those employees of public schools including postsecondary vocational-technical schools governed by the Technical College System of Georgia who are not eligible for membership in the Teachers Retirement System of Georgia or the Employees' Retirement System of Georgia. The term specifically includes, but is not limited to, school bus drivers, school lunchroom personnel, school maintenance personnel, and school custodial personnel.

(B) The term does not include teachers or any school personnel who are now, or may hereafter become, covered by the Teachers Retirement System of Georgia or the

Employees' Retirement System of Georgia, any person on the payroll of a third party with whom an employer has contracted for the provision of such person's services, or any person classified by an employer as other than a common law employee for federal tax purposes, even if a court or administrative agency determines that such person is a common law employee and not an independent contractor for federal tax purposes.

(C) Certain public school employees, as defined in subparagraph (A) of this paragraph, shall have the option to become members of the Teachers Retirement System of Georgia in accordance with subsection (d), (f), or (g) of Code Section 47-4-40 or to become members of the Employees' Retirement System of Georgia in accordance with subsection (e) of Code Section 47-4-40, and except as provided by such subsections, any public school employee becoming a member of the Teachers Retirement System of Georgia or the Employees' Retirement System of Georgia shall cease to be a member of the retirement system created by this chapter."

SECTION 4.

Said title is further amend in said chapter by adding two new subsections to Code Section 47-4-40, relating to eligibility, leaves of absence, termination, and transfer of service credits, to read as follows:

"(f)(1) Any person who, on or after September 2, 2026, becomes a permanent status employee employed not less than half time and subject to the provisions of subsection (a) of this Code section may make a one-time irrevocable election to become a member of the Teachers Retirement System of Georgia in accordance with the provisions of this subsection and Code Section 47-3-69. Such election shall be made within ten days after becoming so employed and shall be exercised by notification, in writing, to the respective boards of trustees of such retirement systems.

(2) No person who makes the election allowed by paragraph (1) of this subsection shall:

(A) Become a member of this retirement system; or

(B) Be eligible to transfer any creditable service to the Teachers Retirement System of Georgia.

(3) It shall be the duty and responsibility of local units of administration and postsecondary vocational-technical schools governed by the Technical College System of Georgia to notify persons who become employed and are eligible to make an election pursuant to paragraph (1) of this subsection of such option and to furnish such employees appropriate forms for the exercise of such option.

(g)(1) Each contributing member of this retirement system who is a permanent status employee employed not less than half time on September 1, 2026, shall have the option to make an irrevocable election to become a member of the Teachers Retirement System of Georgia in accordance with the provisions of this subsection and Code Section 47-3-69.

(2) No person who makes the election allowed by paragraph (1) of this subsection shall:

(A) Become a member of this retirement system; or

(B) Be eligible to transfer any creditable service to the Teachers Retirement System of Georgia.

(3) Any person who makes the election allowed by paragraph (1) of this subsection who has ten or more years of creditable service under this chapter may:

(A) Withdraw their accumulated contributions from the fund, and upon withdrawing such contributions such personnel shall cease to be members of the retirement system;

or

(B) Elect to allow their accumulated contributions to remain in the fund, and such personnel shall retain the vested rights established by Code Section 47-4-100. Upon exercising such option, however, any such personnel shall cease making contributions to the retirement system, and no additional creditable service shall be allowed under the retirement system.

(4) For any person who makes the election allowed by paragraph (1) of this subsection with less than ten years of creditable service under this chapter, such person shall withdraw his or her accumulated contributions from the fund and thereupon cease to be a member of the retirement system.

(5) It shall be the duty and responsibility of local units of administration and postsecondary vocational-technical schools governed by the Technical College System of Georgia to notify their employees who are eligible to make an election pursuant to paragraph (1) of this subsection of such option and to furnish such employees appropriate forms for the exercise of such option."

SECTION 5.

This Act shall become effective on July 1, 2026, 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, 2026, as required by subsection (a) of Code Section 47-20-50.

SECTION 6.

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