

The Senate Committee on Retirement offered the following substitute to SB 209:

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 certain
5 employers to elect to offer such benefit to certain employees; to provide for conditions; to
6 prohibit transfers of creditable service; to provide for notification; to provide for related
7 matters; to provide conditions for an effective date and automatic repeal; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

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

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

- 16 (A) Employees of a public school or a local board of education with the exception of
17 those employees required to be members of the Public School Employees Retirement
18 System as governed by Chapter 4 of this title;
- 19 (B) Public school lunchroom managers or supervisors, maintenance managers or
20 supervisors, transportation managers or supervisors, and warehouse managers or
21 supervisors who elect to participate in the retirement system pursuant to Code Section
22 47-3-63;
- 23 (C) Employees of the Board of Regents of the University System of Georgia with the
24 exception of those employees who elect to participate in the Regents Retirement Plan
25 as governed by Chapter 21 of this title and maintenance and custodial employees
26 employed prior to July 1, 1978, who elected to forgo membership;
- 27 (D) Employees of any regional educational service agency created pursuant to Part 11
28 of Article 6 of Chapter 2 of Title 20;
- 29 (E) Certified professional personnel employed for the first time by the Department of
30 Education on and after July 1, 1983, unless such personnel elect membership in the
31 Employees' Retirement System of Georgia pursuant to subsection (h) of Code Section
32 47-3-60, and any employee of the Department of Education employed in a teaching,
33 supervisory, or clerical capacity;
- 34 (F) Certified professional personnel employed by the Department of Education and
35 who become members of this retirement system pursuant to the authority of subsection
36 (i) of Code Section 47-3-60;
- 37 (G) Professional personnel employed for the first time by the Technical College
38 System of Georgia on and after July 1, 1985, and all nonprofessional personnel
39 employed for the first time after July 1, 1987, by postsecondary vocational-technical
40 schools governed by the Technical College System of Georgia if otherwise eligible
41 under laws, rules, and regulations, unless such personnel elect membership in the

42 Employees' Retirement System of Georgia pursuant to subsection (j) of Code Section
43 47-3-60;

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

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

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

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

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

69

SECTION 2.

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

71 "47-3-69.

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

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

84

SECTION 3.

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

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

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

95 (B) The term does not include teachers or any school personnel who are now, or may
96 hereafter become, covered by the Teachers Retirement System of Georgia or the
97 Employees' Retirement System of Georgia, any person on the payroll of a third party
98 with whom an employer has contracted for the provision of such person's services, or
99 any person classified by an employer as other than a common law employee for federal
100 tax purposes, even if a court or administrative agency determines that such person is a
101 common law employee and not an independent contractor for federal tax purposes.

102 (C) Certain public school employees, as defined in subparagraph (A) of this
103 paragraph, shall have the option to become members of the Teachers Retirement
104 System of Georgia in accordance with subsection (d), (f), (g), or (h) of Code Section
105 47-4-40 or to become members of the Employees' Retirement System of Georgia in
106 accordance with subsection (e) of Code Section 47-4-40, and except as provided by
107 such subsections, any public school employee becoming a member of the Teachers
108 Retirement System of Georgia or the Employees' Retirement System of Georgia shall
109 cease to be a member of the retirement system created by this chapter."

110

SECTION 4.

111 Said title is further amend in said chapter by adding new subsections to Code Section
112 47-4-40, relating to eligibility, leaves of absence, termination, and transfer of service credits,
113 to read as follows:

114 "(f)(1) Any person who, on or after January 2, 2027, becomes a permanent status
115 employee employed not less than half time by a participating employer and subject to the
116 provisions of subsection (a) of this Code section may make a one-time irrevocable
117 election to become a member of the Teachers Retirement System of Georgia in
118 accordance with the provisions of this subsection and Code Section 47-3-69. Such
119 election shall be made within 30 days after becoming so employed and shall be exercised
120 by notification, in writing, to the respective boards of trustees of such retirement systems.

- 121 (2) No person who makes the election allowed by paragraph (1) of this subsection shall:
122 (A) Become a member of this retirement system; or
123 (B) Be eligible to transfer any creditable service to the Teachers Retirement System of
124 Georgia.
- 125 (3) It shall be the duty and responsibility of local units of administration and
126 postsecondary vocational-technical schools governed by the Technical College System
127 of Georgia to notify persons who become employed and are eligible to make an election
128 pursuant to paragraph (1) of this subsection of such option and to furnish such employees
129 appropriate forms for the exercise of such option.
- 130 (g)(1) Each contributing member of this retirement system who is a permanent status
131 employee employed not less than half time by a participating employer on January 1,
132 2027, shall have the option to make an irrevocable election to become a member of the
133 Teachers Retirement System of Georgia in accordance with the provisions of this
134 subsection and Code Section 47-3-69. Such election shall be made within 30 days after
135 January 1, 2027, and shall be exercised by notification, in writing, to the respective
136 boards of trustees of such retirement systems.
- 137 (2) No person who makes the election allowed by paragraph (1) of this subsection shall:
138 (A) Become a member of this retirement system; or
139 (B) Be eligible to transfer any creditable service to the Teachers Retirement System of
140 Georgia.
- 141 (3) Any person who makes the election allowed by paragraph (1) of this subsection who
142 has ten or more years of creditable service under this chapter may:
- 143 (A) Withdraw their accumulated contributions from the fund, and upon withdrawing
144 such contributions such personnel shall cease to be members of the retirement system;
145 or
146 (B) Elect to allow their accumulated contributions to remain in the fund, and such
147 personnel shall retain the vested rights established by Code Section 47-4-100. Upon

148 exercising such option, however, any such personnel shall cease making contributions
149 to the retirement system, and no additional creditable service shall be allowed under the
150 retirement system.

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

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

160 (h)(1) After January 1, 2027, each contributing member of this retirement system who
161 is a permanent status employee employed not less than half time by an employer other
162 than a participating employer on the date that such employer makes the election to
163 become a participating employer, shall have the option to make an irrevocable election
164 to become a member of the Teachers Retirement System of Georgia in accordance with
165 the provisions of this subsection and Code Section 47-3-69. Such election shall be made
166 within 30 days after notification that the member's employer has elected to become a
167 participating employer and shall be exercised by notification, in writing, to the respective
168 boards of trustees of such retirement systems.

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

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

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

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

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

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

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

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

192 (i)(1) For the purpose of this Code section, the term 'participating employer' means a
193 local unit of administration or postsecondary vocational-technical schools governed by
194 the Technical College System of Georgia that has elected to allow for the employee
195 election into the Teachers Retirement System of Georgia pursuant to subsections (f), (g),
196 and (h) of this Code section.

197 (2) The election made by a local unit of administration or postsecondary
198 vocational-technical schools governed by the Technical College System of Georgia to
199 become a participating employer may not be revoked once made.

200 (3) A local unit of administration or postsecondary vocational-technical school governed
201 by the Technical College System of Georgia electing to be a participating employer shall

202 forward notice of such election along with the date on which notice of such election was
203 sent to members employed by the participating employer to the Teachers Retirement
204 System of Georgia and the Public School Employees Retirement System."

205 **SECTION 5.**

206 This Act shall become effective on July 1, 2026, only if it is determined to have been
207 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
208 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
209 become effective and shall be automatically repealed in its entirety on July 1, 2026, as
210 required by subsection (a) of Code Section 47-20-50.

211 **SECTION 6.**

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