

House Bill 109

By: Representatives Benton of the 31st, Powell of the 32nd, England of the 116th, and Gambill of the 15th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to the
2 Teachers Retirement System of Georgia, so as to modify conditions of the Teachers
3 Retirement System of Georgia for individuals who first became members on or after July 1,
4 2019; to revise the computation of earnable compensation; to revise the definition of average
5 final compensation; to modify the employee contribution rate; to prohibit creditable service
6 for unused sick leave; to modify provisions for normal retirement age; to modify the vesting
7 period; to provide for related matters; to provide for an effective date; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to the Teachers
12 Retirement System of Georgia, is amended by revising paragraphs (6) and (11) of Code
13 Section 47-3-1, relating to definitions, as follows:

14 "(6) 'Average final compensation' means:

15 (A) For an individual who first became a member prior to July 1, 2019, the average
16 annual earnable compensation of a teacher during the two consecutive years of
17 membership service producing the highest such average; and

18 (B) For an individual who first became a member on or after July 1, 2019, the average
19 annual earnable compensation of a teacher during the five consecutive years of
20 membership service producing the highest such average."

21 "(11) 'Earnable compensation' means the full rate of regular compensation payable to a
22 member for his or her full normal working time and includes compensation paid to a
23 member by an employer from grants or contracts made by outside agencies with the
24 employer; provided, however, that:

25 (A) All moneys paid by an employer for a member or by a member into any plan of tax
26 sheltered annuity shall be included as earnable compensation for the purpose of

27 computing any contributions required to be made to the retirement system and also for
 28 the purpose of computing any benefits or allowances payable under this chapter;

29 (B) Such term shall include contributions made to a qualified transportation plan,
 30 within the meaning of Section 132(f) of the federal Internal Revenue Code, and before
 31 tax or salary deferral contributions made under Sections 125, 401(k), 402(g)(3), 457,
 32 or 414(h) of the federal Internal Revenue Code to this retirement system or to any other
 33 retirement plan maintained by an employer; and

34 (C) For an individual who first became a member on or after July 1, 2019, earnable
 35 compensation shall not exceed \$200,000.00; provided, however, that such maximum
 36 amount shall increase on July 1, 2020, and annually thereafter by an amount equal to
 37 the lesser of 3 percent or the prior year's annualized rate of inflation as determined by
 38 the board in accordance with generally accepted economic principles."

39 SECTION 2.

40 Said chapter is further amended by revising Code Section 47-3-41, relating to annuity
 41 savings fund generally, as follows:

42 "47-3-41.

43 (a) The annuity savings fund shall be the fund in which shall be accumulated the
 44 contributions deducted from the compensation of members to provide for their annuities.

45 Contributions to and payments from the annuity savings fund shall be made as follows:

46 (1)(A) After the commencement date, each employer shall cause to be deducted from
 47 the salary of each member for each and every payroll period a percentage of the
 48 member's earnable compensation as determined by the board of trustees which shall be:

49 (i) For an individual who first became a member prior to July 1, 2019, not less than
 50 5 nor more than 6 percent; ~~but no such~~ and

51 (ii) For an individual who first became a member on or after July 1, 2019, not less
 52 than 6 nor more than 10 percent. Such percentage shall be determined annually by
 53 the board and shall reflect needs of the fiscal state of the retirement system.

54 (B) A deduction shall not be made from the compensation of a member after the close
 55 of the school, fiscal, or contract year in which the member has attained age 65 and has
 56 completed 40 or more years of creditable service.

57 (C)(i) In determining the amount earnable by a member in a payroll period, the
 58 employer may consider the annual rate of compensation payable to such member on
 59 the first day of the payroll period as continuing throughout such payroll period. The
 60 employer may omit the deduction from compensation for any period which is less
 61 than a full payroll period, if a teacher was not a member on the first day of the payroll
 62 period.

63 (ii) In order to facilitate the making of deductions, the employer may modify the
64 deductions required of any member by an amount not to exceed one-tenth of 1 percent
65 of the annual compensation, on the basis of which such deductions are to be made.

66 (iii) Each employer shall immediately pay the amount deducted to the board of
67 trustees, in such manner as the board of trustees shall prescribe, which amount shall
68 be credited by the board of trustees to the individual accounts in the annuity savings
69 fund of the member from whose compensation the deductions were made.

70 (iv) Beginning July 1, 1987, the employee contributions required under this
71 paragraph shall be paid as provided in Code Section 47-3-41.1;

72 (2) Notwithstanding any other provisions of this subsection, at the close of any school,
73 fiscal, or contract year in which a member has completed 40 or more years of creditable
74 service, such member may elect in writing to cease making contributions to the retirement
75 system. If such election is made, such teacher shall notify his or her employer and the
76 board of trustees in such manner as the board of trustees shall prescribe. After giving the
77 required notice, the employer shall not thereafter deduct, and the employee shall not
78 thereafter be allowed to make, contributions to the retirement system from the salary or
79 compensation of such member;

80 (3) Any other provision of this or any other law to the contrary notwithstanding, a
81 member who has attained age 65 and who has completed 40 or more years of creditable
82 service may elect to continue to make contributions to the retirement system during such
83 continuous period of time as the member continues in service. He or she shall notify his
84 or her employer and the board of trustees of such election in such manner as the board
85 of trustees shall provide. Any member who has discontinued making contributions to the
86 retirement system because he or she has attained age 65 and has 40 years of creditable
87 service and who has continued in service may remit contributions to the board of trustees
88 at the rate required by law and under terms and regulations prescribed by the board of
89 trustees on all earnable compensation received by the member since deductions were
90 discontinued. Contributions made under this paragraph shall entitle the member to
91 creditable service for such period, but only for the purpose of determining average
92 compensation over the highest consecutive years, used in the calculations of the
93 retirement benefits of such member; and

94 (4) Employer deductions shall be made, notwithstanding that the minimum compensation
95 provided for by law for any member shall be reduced thereby. Every member shall be
96 deemed to consent and agree to the deductions and payment of salary or compensation,
97 less such deductions, shall be a full and complete discharge and acquittance of all claims
98 and demands whatsoever for the services rendered by such person during the period
99 covered by such payment, except as to the benefits under this chapter.

100 (b) Notwithstanding subsection (a) of this Code section, no deductions shall be made from
101 a member's salary if the employer's contribution as to such member is in default.

102 (c) The contributions withdrawn by a member or payable in the event of his or her death
103 shall be paid from the annuity savings fund and any balance of the accumulated
104 contributions standing to the credit of his or her individual account shall be transferred
105 from the annuity savings fund to the pension accumulation fund.

106 (d) Upon the retirement of a member, his or her accumulated contributions shall be
107 transferred from the annuity savings fund to the pension accumulation fund."

108 **SECTION 3.**

109 Said chapter is further amended by revising subsection (e) of Code Section 47-3-92, relating
110 to absence from employment because of sick leave and creditable service, as follows:

111 "(e) The creditable service provided by this Code section shall be available only to ~~persons~~
112 individuals who retire on or after July 1, 1998, and shall not apply to individuals who first
113 became members on or after July 1, 2019."

114 **SECTION 4.**

115 Said chapter is further amended by revising Code Section 47-3-101, relating to eligibility and
116 application for retirement, retirement age, duration of benefits paid to a retired member, and
117 payment to maintain Teachers Retirement System, as follows:

118 "47-3-101.

119 (a)(1) ~~Any~~ A member in service who first became a member prior to July 1, 2019, may
120 retire upon written application to the board of trustees, provided that the member at the
121 time of retirement:

122 (A) Has ~~(1) has~~ attained the age of 60 years and has at least ten years of creditable
123 service; or

124 (B) Has ~~(2) has~~ at least 25 years of creditable service.

125 (2) The effective date of retirement will be the first of the month in which the application
126 is received by the board of trustees; except that no retirement application will be effective
127 earlier than the first of the month following the final month of the applicant's
128 employment. Applications for retirement will not be accepted more than 180 days in
129 advance of the effective date of retirement.

130 (3) Each employer shall certify to the board of trustees the date on which the employee's
131 employment is or will be severed and that no agreement exists to allow the employee to
132 return to service, including service as or for an independent contractor. Any return to
133 employment or rendering of any paid service, including service as or for an independent

134 contractor, for any employer during the calendar month of the effective date of retirement
135 shall render the severance invalid and nullify the application for retirement.

136 (b) For purposes of this chapter, normal retirement age shall be:

137 (1) For an individual who first became a member prior to July 1, 2019, 60 years of age
138 if the member has at least ten years of creditable service or the age of the member on the
139 date he or she attains 30 years of creditable service, whichever event comes first; and

140 (2) For an individual who first became a member on or after July 1, 2019, 60 years of
141 age if such member has at least ten years of membership service;

142 provided, however, that the provisions of this subsection shall be subject to change by
143 future legislation in order to comply with federal regulations. Except as provided under
144 Article 3 of Chapter 1 of this chapter, a member's right to his or her retirement allowance
145 is nonforfeitable upon attainment of normal retirement age.

146 (c) The benefits payable under Code ~~Section~~ Sections 47-3-120 and ~~under Code Section~~
147 47-3-122 shall be payable to the retired member for the remainder of his or her lifetime and
148 shall be known as the maximum plan. Upon the death of the retired member, all monthly
149 benefits shall cease as of the end of the month in which the retired member died. If the
150 total monthly benefits paid at the time of the retired member's death are less than ~~his~~ the
151 accumulated contributions at the time of his or her retirement, the difference between the
152 benefits paid and such accumulated contributions shall be refunded to the person who has
153 been designated in writing by the retired member or to the retired member's estate, if no
154 such person has been designated or if such designated person has predeceased the retired
155 member. This subsection shall not apply when an optional allowance has been selected by
156 the member under Code Section 47-3-121.

157 (d) The board of trustees is authorized to provide by rule or regulation for the payment of
158 benefits to members or beneficiaries of the retirement system at a time and under
159 circumstances not provided for in this chapter to the extent that such payment is required
160 to maintain the Teachers Retirement System of Georgia as a 'qualified retirement plan' for
161 the purposes of federal income tax laws."

162 **SECTION 5.**

163 Said chapter is further amended by revising subsection (a) of Code Section 47-3-102, relating
164 to early retirement after 30 years' service, time for application, and payment by member of
165 actuarial cost, as follows:

166 "(a)(1) As used in this Code section, the term 'school year' means a regular school year
167 which begins during or near September of one year and ends during or near June of the
168 following year.

169 (2) This Code section shall not apply to an individual who first became a member on or
 170 after July 1, 2019."

171 **SECTION 6.**

172 Said chapter is further amended by revising subsection (a) of Code Section 47-3-120, relating
 173 to allowance on service retirement, minimum retirement allowance, reduced allowance,
 174 increase, and computation of average compensation, as follows:

175 "(a) Upon service retirement, a member who first became a member prior to July 1, 2019,
 176 shall receive an allowance which shall consist of:

177 (1) An annuity which shall be the actuarial equivalent of the member's accumulated
 178 contributions at the time of retirement; and

179 (2) An annual pension which, together with the annuity set forth in paragraph (1) of this
 180 subsection, shall provide a total allowance equal to 2 percent of the member's average
 181 compensation over the two consecutive years of membership service producing the
 182 highest such average, multiplied by the number of the member's years of creditable
 183 service, not to exceed 40. The computation of average compensation for the purposes of
 184 this paragraph shall be subject to the requirements of subsection (d) of this Code section."

185 **SECTION 7.**

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

187 "47-3-120.1.

188 (a) Upon service retirement, a member who first became a member on or after July 1,
 189 2019, shall receive an allowance which shall consist of:

190 (1) An annuity which shall be the actuarial equivalent of the member's accumulated
 191 contributions at the time of retirement; and

192 (2) An annual pension which, together with the annuity set forth in paragraph (1) of this
 193 subsection, shall provide a total allowance equal to 2 percent of the member's average
 194 compensation over the five consecutive years of membership service producing the
 195 highest such average, multiplied by the number of the member's years of creditable
 196 service, not to exceed 40. The computation of average compensation for the purposes of
 197 this paragraph shall be subject to the requirements of subsection (b) of this Code section.

198 (b) No more than two increases in compensation granted during the five consecutive years
 199 on which average compensation is based under paragraph (2) of subsection (a) of this Code
 200 section shall be considered in the computation of such average compensation. For those
 201 members who are not employees of the Board of Regents of the University System of
 202 Georgia, that part of any such increase in compensation which exceeds a percentage equal
 203 to the average annual increase in compensation granted to classroom teachers by

204 appropriations of the General Assembly, plus 2.5 percent of compensation received at the
205 time the annual increase granted by appropriations becomes effective, shall not be
206 considered in the computation of average compensation. For those members who are
207 employees of the Board of Regents of the University System of Georgia, that part of any
208 such increase in compensation which exceeds a percentage equal to the average annual
209 increase in compensation granted to academic personnel employed by said board of regents
210 by appropriations of the General Assembly, plus 2.5 percent of compensation received at
211 the time the annual increase granted by appropriations becomes effective, shall not be
212 considered in the computation of average compensation."

213 **SECTION 8.**

214 This Act shall become effective upon its approval by the Governor or upon its becoming law
215 without such approval.

216 **SECTION 9.**

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