

House Bill 218

By: Representatives Evans of the 42<sup>nd</sup>, Willard of the 51<sup>st</sup>, and Battles of the 15<sup>th</sup>

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 provide that an election to participate in the Regents Retirement Plan in  
3 lieu of the Teachers Retirement System of Georgia shall be revocable at will; to provide that  
4 persons who made an irrevocable election for such participation may nonetheless elect to  
5 participate in the Teachers Retirement System of Georgia; to provide for creditable service;  
6 to provide for application and transfer of funds; to provide conditions for an effective date  
7 and automatic repeal; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is  
11 amended by revising Code Section 47-3-68, relating to membership of eligible university  
12 system employees in the Teachers Retirement System of Georgia, as follows:

13 "47-3-68.

14 (a)(1) The provisions of this paragraph shall apply to persons employed prior to July 1,  
15 2008. As used in this Code section, the term 'eligible university system employee' means  
16 faculty and principal administrators employed by the University System of Georgia, as  
17 designated by regulations of the Board of Regents of the University System of Georgia,  
18 who are:

19 (A) Employed on or after July 1, 1990, and are eligible for membership in the  
20 retirement system provided for in this chapter as of the date of employment; or

21 (B) Members of the retirement system provided for in this chapter on July 1, 1990,  
22 with less than ten years of creditable service on that date.

23 (2) The provisions of this paragraph shall apply to persons first or again employed on or  
24 after July 1, 2008. As used in this Code section, the term 'eligible university system  
25 employee' means faculty members or exempt employees within the meaning of the  
26 federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Section 201, et seq.,

27 who are eligible for membership in the retirement system provided for in this chapter as  
28 of the date of such employment.

29 (b) Any other provisions of this chapter to the contrary notwithstanding, any eligible  
30 university system employee may withdraw from or decline membership in the retirement  
31 system provided for in this chapter and participate in the optional retirement plan provided  
32 for in Chapter 21 of this title as provided in this Code section.

33 (c) Members of the retirement system provided for in this chapter who were eligible  
34 university system employees on July 1, 1990, shall have the option to withdraw from this  
35 retirement system and participate in the optional retirement plan provided for in Chapter  
36 21 of this title. Members exercising said option, which shall be irrevocable except for the  
37 revocation provided in subsection (g) of this Code section, shall forfeit all rights under this  
38 retirement system except that they shall have the right to have their accumulated  
39 contributions under this retirement system transferred to the optional retirement plan.  
40 Upon such election's becoming effective, the board of trustees shall transfer the member's  
41 accumulated contributions directly to the optional retirement plan to purchase benefits  
42 thereunder and the funds so transferred will not be made available to the member except  
43 as a participant in the optional retirement plan. The option provided for in this Code  
44 section shall be exercised by filing a written notification thereof with the board of trustees  
45 and with the employer by not later than July 31, 1991. The effective date of the option and  
46 transfer for each member who elects to become a new participant in the optional retirement  
47 plan shall be August 1, 1991. The failure to exercise the option by July 31, 1991, shall be  
48 an irrevocable election to remain a member of this retirement system; provided, however,  
49 that such irrevocable decision may be revoked as provided in subsection (g) of this Code  
50 section.

51 (d) Eligible university system employees employed on or after July 1, 1990, shall, within  
52 30 days immediately following the effective date of their employment, make an irrevocable  
53 decision to be a member of this retirement system or participate in the optional retirement  
54 plan provided for in Chapter 21 of this title; provided, however, that such employees  
55 employed on or after July 1, 1995, shall make such irrevocable decision within 60 days  
56 immediately following the effective date of their employment; provided, however, that  
57 such irrevocable decision may be revoked as provided in subsection (g) of this Code  
58 section. A written statement of the decision shall be filed with the employer and with the  
59 board of trustees and shall be effective from the date of employment. If an eligible  
60 university system employee fails to file a statement of decision provided for in this  
61 subsection, such failure shall be an irrevocable election to become a member of the  
62 retirement system provided for in this chapter; provided, however, that such irrevocable  
63 decision may be revoked as provided in subsection (g) of this Code section.

64 (e) Any former member of this retirement system who is presently a participant in the  
65 optional retirement plan provided for in Chapter 21 of this title shall have the right to have  
66 the former member's accumulated contributions to this retirement system transferred to said  
67 optional retirement plan. Such right shall be exercised by filing a written notification  
68 thereof with the board of trustees by not later than July 31, 1991. After receiving such  
69 notification, the board of trustees shall, by not later than October 1, 1991, transfer the  
70 former member's accumulated contributions directly to the optional retirement plan to  
71 purchase benefits thereunder and the funds so transferred will not be made available to the  
72 former member except as a participant in the optional retirement plan.

73 (f) Any member of this retirement system who was employed on July 1, 2004, as an  
74 assistant coach by the athletic department of a state university may make an irrevocable  
75 decision to participate in the optional retirement plan provided by Chapter 21 of this title;  
76 provided, however, that such decision may be revoked as provided in subsection (g) of this  
77 Code section. Such election shall be made to the employer and the board of trustees not  
78 later than August 31, 2004. The board of trustees shall transfer to such member's account  
79 in such optional retirement plan all employer and employee contributions made by or on  
80 behalf of such member together with regular interest thereon.

81 (g)(1) Any eligible university system employee who made an irrevocable decision to  
82 decline membership in this retirement system and participate in the regents retirement  
83 plan created by Chapter 21 of this title may nevertheless revoke such election and become  
84 or again become a member of this retirement system as provided in this subsection.

85 (2) Any person desiring to revoke his or her participation in the regents retirement plan  
86 as provided in paragraph (1) of this subsection shall notify the board of trustees of this  
87 retirement system in such manner as the board shall deem appropriate, and such person  
88 shall become an active member of this retirement system on the first day of the month  
89 following the month in which such notification is received by the board.

90 (3)(A) Any person who becomes a member of this retirement system pursuant to  
91 paragraph (2) of this subsection may obtain creditable service for prior service while  
92 he or she was participating in the regents retirement plan. The member may obtain  
93 credit for all or any portion of such prior service. Such creditable service shall be  
94 obtained through a one-time application and upon a one-time payment to the board of  
95 trustees. Payment may be made by instrument or by a direct rollover from another  
96 eligible retirement plan including, without limitation, the regents retirement plan, but  
97 only if such rollover is authorized by the federal Internal Revenue Code. Upon receipt  
98 of such funds, the board of trustees shall credit the member with only so much  
99 creditable service as such amount will warrant without creating any actuarial accrued

100 unfunded liability as to this retirement system, up to the actual number of years of  
101 eligible prior service as calculated by the board of trustees.

102 (B) Any person desiring to exercise the election provided by this paragraph shall  
103 submit his or her application, together with any sum he or she desires to pay or transfer  
104 to this retirement system, as follows:

105 (i) For any person who is in employment on July 1, 2018, who has at least five years  
106 of employment as an eligible university system employee, not later than December  
107 31, 2018;

108 (ii) For any person who is in employment on July 1, 2018, who has less than five  
109 years of employment as an eligible university system employee, any time during the  
110 sixth year of his or her employment as an eligible university system employee; and

111 (iii) For any person who first or again becomes employed as an eligible university  
112 system employee after July 1, 2018, any time during the sixth year of his or her  
113 employment as an eligible university system employee."

114 **SECTION 2.**

115 This Act shall become effective on July 1, 2018, only if it is determined to have been  
116 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia  
117 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not  
118 become effective and shall be automatically repealed in its entirety on July 1, 2018, as  
119 required by subsection (a) of Code Section 47-20-50.

120 **SECTION 3.**

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