

House Bill 588

By: Representatives Maxwell of the 17<sup>th</sup>, Coleman of the 97<sup>th</sup>, Benton of the 31<sup>st</sup>, Greene of the 151<sup>st</sup>, and Battles of the 15<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 2 of Title 47 of the Official Code of Georgia Annotated,  
2 relating to employee and employer contributions and creation of funds for contributions,  
3 benefits, and administrative expenses, so as to revise the method and manner by which a  
4 member of the Employees' Retirement System of Georgia may purchase an annuity; to  
5 authorize the board of trustees to offer a supplemental guaranteed lifetime annuity to certain  
6 retired members purchased by transfer of funds from the state sponsored deferred  
7 compensation plans; to provide for related matters; to provide conditions for an effective date  
8 and automatic repeal; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Article 3 of Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to  
12 employee and employer contributions and creation of funds for contributions, benefits, and  
13 administrative expenses, is amended by revising paragraph (3) of subsection (a) of Code  
14 Section 47-2-51, relating to annuity savings fund and employee contributions to it,  
15 deductions, effect of default with respect to employer contributions, and payments,  
16 withdrawal, or transfer of funds, as follows:

17 "(3) In addition to the contributions deducted from the compensation of members under  
18 paragraph (1) of this subsection and subject to the approval of the board of trustees and  
19 such conditions as it may prescribe, any member may redeposit in the annuity savings  
20 fund, by a single payment or by an increased rate of contribution, all or any part of  
21 amounts that he were previously ~~withdrew~~ withdrawn from it under this chapter; ~~or,~~  
22 ~~subject to such approval and conditions, any member may deposit therein, by a single~~  
23 ~~payment or by an increased rate of contribution, an amount computed to be sufficient to~~  
24 ~~purchase an additional annuity which, together with his prospective retirement allowance,~~  
25 ~~will provide for him a total retirement allowance of not more than one-half of his average~~  
26 ~~final compensation, provided that for this purpose a member shall be deemed to have~~

27 ~~retired at age 65 and amounts earned after reaching that age shall not be included in~~  
 28 ~~average final compensation. Such additional amounts so deposited shall become a part~~  
 29 ~~of the member's accumulated contributions, provided that upon retirement they shall be~~  
 30 ~~treated as excess contributions returnable to the member as an annuity of equivalent~~  
 31 ~~actuarial value and shall not be considered in computing the pension; and"~~

## 32 SECTION 2.

33 Said article is further amended by adding a new Code section to read as follows:

34 "47-2-51.1.

35 (a) For the purposes of this Code section, the term:

36 (1) '401(k) plan' means the State of Georgia Employees' Qualified Trust Deferred  
 37 Compensation Plan.

38 (2) '457(b) plan' means the State of Georgia Employees' Deferred Compensation Plan.

39 (3) 'Contingent annuitant' means an individual designated by an eligible retired member  
 40 to receive survivor's benefits from an SGLI annuity.

41 (4) 'Eligible retired member' means an individual in retirement, whether retirement is  
 42 service based or due to disability, who has at least ten years of creditable service or five  
 43 years of creditable service if such retired member became a member before July 1, 1968,  
 44 provided that such individual has not elected a partial lump sum distribution under option  
 45 six pursuant to subsection (e.4) of Code Section 47-2-121.

46 (5) 'SGLI annuity' means a Supplemental Guaranteed Lifetime Income annuity  
 47 established by the board of trustees pursuant to this Code section.

48 (b) On or after January 1, 2019, subject to the approval of the board of trustees and such  
 49 conditions as it may prescribe and the applicable requirements of the federal Internal  
 50 Revenue Code, the 401(k) plan, the 457(b) plan, and the provisions of this Code section,  
 51 an eligible retired member may transfer some or all account funds from his or her 401(k)  
 52 plan or 457(b) plan into an account under the Employees' Retirement System of Georgia  
 53 in order to purchase an SGLI annuity, which shall supplement the member's retirement  
 54 allowance under this chapter.

55 (c) An eligible retired member may only purchase up to two SGLI annuities and may only  
 56 purchase an SGLI annuity during the period of time beginning on the commencement date  
 57 of such member's retirement allowance under this chapter and ending on December 31 of  
 58 the calendar year in which such member attains age 70 or in which such member's  
 59 retirement allowance commences, whichever is later.

60 (d) An SGLI annuity shall commence on the first day of the month in which both the  
 61 eligible retired member's written application and purchase amount are received by the  
 62 board of trustees.

63 (e) An eligible retired member's election to purchase an SGLI annuity shall be irrevocable  
64 upon the retirement system's issuance of the first monthly payment of the SGLI annuity.

65 (f)(1) An eligible retired member may only purchase an SGLI annuity by transferring at  
66 least \$25,000.00 in aggregate from his or her 401(k) plan or 457(b) plan.

67 (2)(A) Such transferred amounts shall be actuarially converted to a monthly annuity  
68 for the retired member's lifetime only as described in Code Section 47-2-120.

69 (B) The actuarial assumptions used to determine the actuarial cost of an SGLI annuity  
70 shall be those recommended by the retirement system's actuary and approved by the  
71 board of trustees. Such actuarial assumptions may be changed from time to time upon  
72 approval of the board of trustees.

73 (C) The intent of this paragraph is to provide that an eligible retired member shall pay  
74 for the entire actuarial cost of an SGLI annuity.

75 (g)(1) Provided that the applicable terms of the 401(k) plan or the 457(b) plan permit  
76 such use, and subject to any applicable conditions or limitations on such use, an eligible  
77 retired member may transfer some or all of his or her 401(k) plan or 457(b) plan account  
78 funds to the annuity savings fund established pursuant to Code Section 47-2-51 in order  
79 to purchase an SGLI annuity.

80 (2) Any such transfer shall be in compliance with the provisions of Section 401(a)(31)  
81 of the federal Internal Revenue Code and shall be recorded in the eligible retired  
82 member's SGLI annuity record.

83 (3) All of an eligible retired member's funds transferred to the annuity savings fund shall  
84 be expended in full as the purchase amount for the SGLI annuity.

85 (4) An eligible retired member shall not be permitted to purchase an SGLI annuity with  
86 funds that are not transferred from such member's 401(k) plan or 457(b) plan account.

87 (h)(1) The sum of an eligible retired member's retirement allowance calculated as a  
88 monthly annuity for such member's lifetime as of the commencement date of such  
89 retirement allowance and any SGLI annuities calculated as a monthly annuity for such  
90 member's lifetime shall not exceed 90 percent of his or her highest month of earnable  
91 compensation. An eligible retired member shall not be permitted to purchase an SGLI  
92 annuity that would cause such 90 percent limit to be exceeded.

93 (2) If such limited amount exceeds the limits of Section 415(b) of the federal Internal  
94 Revenue Code, such excess shall be paid from the Supplemental Retirement Benefit Plan,  
95 which provides for benefit payments in excess of such Section 415(b) limitations.

96 (i)(1) An eligible retired member shall elect how to receive an SGLI annuity, either as  
97 an annuity for the retired member's lifetime only or as any of the optional forms of  
98 payment specified in Code Section 47-2-121 with the exception of option six under  
99 subsection (e.4) of Code Section 47-2-121, even if the annuity payment option selected

100 for the SGLI annuity is different from that elected by the member with respect to his or  
101 her retirement allowance under this chapter.

102 (2) The SGLI optional form calculation shall be based on the age of the eligible retired  
103 member and such member's contingent annuitants, if applicable, as of the commencement  
104 date of the SGLI annuity.

105 (3) An eligible retired member may elect an SGLI annuity that permits a refund of the  
106 balance of the purchase amount to the member's contingent annuitants or estate in the  
107 event the retired member and his or her contingent annuitants, if applicable, die prior to  
108 receiving total SGLI annuity payments that equal or exceed the SGLI annuity purchase  
109 amount. Unless the terms of the SGLI annuity form as elected by an eligible retired  
110 member provide for such refund, no part of the SGLI purchase amount shall be refunded  
111 or paid to any person, estate, or other entity upon the death of the retired member or any  
112 contingent annuitant.

113 (j)(1) An SGLI annuity shall be subject to increases and decreases in the monthly annuity  
114 amount payable based on the form and terms of the SGLI annuity purchased by the  
115 retired member.

116 (2) SGLI annuities shall not be eligible for ad hoc or other postretirement benefit  
117 increases approved by the board of trustees, including cost-of-living adjustments,  
118 pursuant to Code Section 47-2-29.

119 (3) No interest shall be paid on amounts transferred to the annuity savings fund for  
120 purposes of purchasing an SGLI annuity.

121 (k)(1) An eligible retired member who elects to purchase an SGLI annuity shall not be  
122 permitted to receive a partial lump sum distribution under option six pursuant to  
123 subsection (e.4) of Code Section 47-2-121.

124 (2) Any requirements under this chapter relating to suspension of benefits for rehired  
125 retirees shall not apply to SGLI annuity payments.

126 (3) No additional creditable service shall be granted for any purpose under this chapter  
127 as a result of the transfer of any funds from a 401(k) plan or 457(b) plan for the purchase  
128 of an SGLI annuity; nor shall such purchase otherwise be considered in computing a  
129 member's retirement allowance.

130 (l) Any other provision of law notwithstanding, the board of trustees may suspend issuance  
131 of new SGLI annuities at any time. Such a suspension shall be prospective in operation  
132 and shall not affect SGLI annuities already in effect. Following such a suspension, the  
133 board of trustees in its discretion may reinstate the issuance of SGLI annuities at any time.

134 (m)(1) The administration of the SGLI annuity requires that SGLI purchase costs vary  
135 from time to time and members shall not have any right to any particular purchase price.

136 (2) SGLI annuity payments shall be subject to the minimum distribution rules of federal  
137 Internal Revenue Code Section 401(a)(9)."

138 **SECTION 3.**

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

144 **SECTION 4.**

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