

Senate Bill 174

By: Senators Black of the 8th, Robertson of the 29th, Brass of the 28th, Anderson of the 43rd and Walker III of the 20th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 1 of Title 47 of the Official Code of Georgia Annotated,
2 relating to restrictions and prohibitions on membership in public retirement or pension
3 systems, so as to revise the definition of public employment related crime; to modify the
4 manner and timing for the deduction or cessation of payments owed by a public employee
5 as a result of public employment related crimes; to increase the time in which a public
6 retirement system shall initiate certain administrative proceedings upon the conviction of a
7 member or beneficiary of a public employment related crime; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Article 2 of Chapter 1 of Title 47 of the Official Code of Georgia Annotated, relating to
12 restrictions and prohibitions on membership in public retirement or pension systems, is
13 amended by revising Code Section 47-1-20, relating to definitions, as follows:

14 "47-1-20.

15 As used in this article, the term:

16 (1) 'Conviction' means a judgment of conviction for the commission of a crime which
17 is entered upon a verdict or plea of guilty.

18 (1.1) 'Drug related crime' means a felony specified in subsection (b) of Code
19 Section 16-13-30 and any felony specified in Code Section 16-13-31.

20 (1.2) 'Economic impact of a public employment related crime' means the total of the
21 economic gain to the perpetrator of a public employment related crime and the economic
22 loss to the public entity.

23 (2) 'Employee contribution' means that part of the compensation of a public employee
24 which is paid by the employee or by the employer on the employee's behalf to a public
25 retirement system as a requirement for membership in the public retirement system.

- 26 (3) 'Final conviction' means a conviction which has been upheld after the convicted
27 person has exhausted all appeals of the conviction.
- 28 (4) 'Political subdivision' means any county, municipality, or local school district.
- 29 (5) 'Public employee' means elected and appointed officials and employees of the state
30 or any branch, department, board, bureau, commission, authority, or other agency of the
31 state and elected and appointed officials and employees of any political subdivision or
32 authority or other agency of a political subdivision.
- 33 (6) 'Public employment related crime' means any one or more of the following crimes:
- 34 (A) Theft as provided in any one or more of Code Sections 16-8-2 through 16-8-9
35 when the theft is by an officer or employee of a government in breach of duties as such
36 officer or employee and conviction for such crime is punishable under paragraph (3)
37 of subsection (a) of Code Section 16-8-12;
- 38 (B) ~~Any felony provided for in Article 1 of Chapter 10 of Title 16, relating to abuse of~~
39 ~~governmental office~~ Any felony provided for in Code Section 16-10-2, 16-10-6,
40 16-10-7, or 16-10-8;
- 41 (C) Making false statements or concealing facts in matters within the jurisdiction of the
42 state or a political subdivision as provided in Code Section 16-10-20;
- 43 (D) Conspiracy to defraud the state or a political subdivision as provided in Code
44 Section 16-10-21;
- 45 (E) Stealing, altering, or concealing public records as provided in Code
46 Section 45-11-1;
- 47 (F) Selling offices or dividing fees as provided in Code Section 45-11-2; and
- 48 (G) Any felony conviction for any of the crimes specified in subparagraphs (A)
49 through (E) of this paragraph under the laws of any other state or the United States;
50 provided, however, that the provisions of this subparagraph shall apply to persons who
51 first or again become members of a public retirement system on or after July 1, 2008.
- 52 (7) 'Public retirement system' means any retirement or pension system now or hereafter
53 created by or pursuant to the authority of Georgia law or the Constitution of Georgia
54 which has public employees as members of the retirement or pension system.
- 55 (8) 'Vested' means having sufficient creditable service as a member of a public
56 retirement system to qualify to receive a retirement benefit upon retirement or termination
57 from public service or upon attaining retirement age if public service is terminated prior
58 to attaining such age."

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SECTION 2.

60 Said article is further amended by revising Code Section 47-1-22, relating to reduction and
 61 forfeiture of rights and benefits by public employees after July 1, 1985, for committing
 62 public employment related crimes and reimbursement of contributions, as follows:

63 "47-1-22.

64 (a) This Code section shall apply to public employees first or again becoming public
 65 employees after July 1, 1985.

66 (b)(1) If a public employee commits a public employment related crime in the capacity
 67 of a public employee and is convicted for the commission of such crime, upon final
 68 conviction such person's benefits under a public retirement or pension system, including
 69 any survivor's benefits if applicable, shall be reduced by an amount equal to three times
 70 the economic impact of the crime, as determined pursuant to the provisions of Code
 71 Section 47-1-25.

72 (2) Payment of such benefits shall cease until such amount has been forfeited, after
 73 which benefits shall be restored. If the person has not begun to receive a benefit, the
 74 deduction shall commence at the time such benefits would normally begin.

75 (3) As an alternative to the method and manner of cessation or deduction of payments
 76 required by paragraph (2) of this subsection, a public retirement system may adopt a
 77 policy which provides that the regular benefit payments to the person convicted of a
 78 public employment related crime shall be reduced in equal installments that are
 79 actuarially determined to be equal to the net present value of the reduction required by
 80 paragraph (1) of this subsection over the life expectancy of such person.

81 (4) For purposes of this subsection, the term 'benefit' shall not include a refund of
 82 employee contributions without interest."

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SECTION 3.

84 Said article is further amended by revising Code Section 47-1-25, relating to determination
 85 of economic impact of public employment related crime, as follows:

86 "47-1-25.

87 Within ~~30~~ 90 days following the day the board of trustees receives notice that a member
 88 of the retirement system has been convicted of a public employment related crime, the
 89 board shall initiate proceedings in the Office of State Administrative Hearings, under the
 90 provisions of Article 2 of Chapter 13 of Title 50, to determine the economic impact of the
 91 public employment related crime. Such matter shall be deemed to be a contested case
 92 within the meaning of such article. The Department of Law shall represent the board of
 93 trustees in such proceedings. The decision of the administrative law judge shall be final
 94 unless appeal is made as otherwise provided by law."

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SECTION 4.

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