

Senate Bill 262

By: Senators Harbison of the 15th and Robertson of the 29th

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to the
2 Employees' Retirement System of Georgia, so as to revise certain provisions related to
3 optional retirement allowances; to provide for related matters; to provide conditions for an
4 effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to the Employees'
8 Retirement System of Georgia, is amended by revising Code Section 47-2-121, relating to
9 optional retirement allowances, as follows:

10 "47-2-121.

11 (a) **Elections for Modified Retirement Allowances.** A member may elect to convert the
12 retirement allowance otherwise payable to him or her into a modified retirement allowance
13 of equivalent actuarial value in accordance with one of the options set forth in subsections
14 (b), (c), (d), ~~through~~ (e), (e.1), or (e.4) of this Code section; provided, however, that the
15 member may only make such election after he or she has become eligible to retire and
16 before the first payment of his or her retirement allowance normally becomes due or as
17 otherwise expressly provided by this Code section; provided, further, that if a member was
18 or is unmarried at the time he or she retires and subsequently marries, such member may
19 make such election not later than December 31, 1998, or within six months after the date
20 of marriage, whichever date is later. If a member with a named living beneficiary dies or
21 is determined to be mentally incompetent after becoming eligible to retire, his or her
22 election, or option two in the absence of such election, shall be effective.

23 (b) **Option One.** Option one shall consist of a reduced retirement allowance which is
24 payable during the life of the retired member, with the provision that if he or she dies
25 before he or she has received in payments of his or her annuity the amount of his or her
26 accumulated contributions at the time of his or her retirement, the balance of such amount

27 shall be paid to the person, if any, nominated by him or her by written designation duly
28 executed and filed with the board of trustees; otherwise such amount shall be paid to the
29 retired member's estate.

30 (c) **Option Two.**

31 (1) Option two shall consist of a reduced retirement allowance which is payable during
32 the life of the retired member and which, upon his or her death, shall be continued at the
33 same rate throughout the life of and paid to ~~the person~~ one or more living individuals
34 nominated by him or her by written designation duly executed and filed with the board
35 of trustees at the time of his or her retirement.

36 (2) For a member who elects option two and the first payment of his or her retirement
37 allowance normally becomes due on or after January 1, 2021, option two shall include
38 the provision that upon all individuals designated by the member to receive a retirement
39 allowance payable after his or her death predeceasing such member, the retirement
40 allowance payable to the member shall thereafter be increased to the maximum retirement
41 allowance that such member would have been entitled to receive pursuant to this chapter;
42 provided, however, that within one year of such occurrence, such retired member may
43 apply to the board to reelect option two.

44 (d) **Option Three.**

45 (1) Option three shall consist of a reduced retirement allowance which is payable during
46 the life of the retired member and which, upon his or her death, shall be continued at the
47 rate of one-half the reduced retirement allowance throughout the life of and paid to ~~the~~
48 ~~person~~ one or more living individuals nominated by him or her by written designation
49 duly executed and filed with the board of trustees at the time of his or her retirement.

50 (2) For a member who elects option three and the first payment of his or her retirement
51 allowance normally becomes due on or after January 1, 2021, option three shall include
52 the provision that upon all individuals designated by the member to receive a retirement
53 allowance payable after his or her death predeceasing such member, the retirement
54 allowance payable to the member shall thereafter be increased to the maximum retirement
55 allowance that such member would have been entitled to receive pursuant to this chapter;
56 provided, however, that within one year of such occurrence, such retired member may
57 apply to the board to reelect option three.

58 (e) **Option Four.**

59 (1) Any other provisions of law to the contrary notwithstanding, until the first payment
60 of any member's retirement allowance becomes payable and upon approval of the board
61 of trustees, the member shall have the option, which shall be known as option four, to
62 elect to convert his or her retirement allowance into any method of payments which he
63 or she may deem necessary.

64 (2) Those payments shall be paid either to the member or, at his or her election, to ~~any~~
 65 one or more designated ~~person~~ living individuals, to the estate of the member, or to the
 66 estate of ~~any one or more~~ designated person living individuals.

67 (3) Monthly payments under this option which are in excess of the member's monthly
 68 retirement allowance when computed without option shall be payable only for a period
 69 not to exceed five continuous years from the date of the first payment; and such monthly
 70 payments shall not exceed 135 percent of the member's monthly retirement allowance,
 71 when computed without option.

72 (4) Except in cases where years certain payments have been established for the member,
 73 no monthly allowance shall be payable to ~~the~~ any designated beneficiary in an amount
 74 greater than the monthly allowance which would have been payable to ~~the member's~~ such
 75 designated beneficiary under option two.

76 (5) For a member who elects option four and the first payment of his or her retirement
 77 allowance normally becomes due on or after January 1, 2021, option four shall include
 78 the provision that upon all individuals designated by the member to receive a lifetime
 79 retirement allowance payable after his or her death predeceasing such member, the
 80 retirement allowance payable to the member shall thereafter be increased to the maximum
 81 retirement allowance that such member would have been entitled to receive pursuant to
 82 this chapter; provided, however, that within one year of such occurrence, such retired
 83 member may apply to the board to reelect option four; provided, further, that he or she
 84 may only elect the same variation of option four that had been previously elected.

85 (e.1) **Option Five.**

86 (1) On and after January 1, 2021, an individual shall not be eligible to elect the option
 87 provided for in this subsection.

88 (2) When option two or three is elected and the spouse or child of the retired member
 89 who qualifies as a dependent under the Internal Revenue Code of 1986 is the person
 90 designated to receive all amounts and benefits upon the death of the retired member,
 91 option five shall consist of the added provision that in the event the spouse or dependent
 92 child predeceases the retired member, the retirement allowance payable to the retired
 93 member after the death of the spouse or dependent child shall be equal to the maximum
 94 retirement allowance which the retired member would have been entitled to receive under
 95 this chapter.

96 (e.2) **Certain Members Predeceased by a Spouse.**

97 (1) As used in this subsection, the term 'retired member' means a person retired under
 98 this chapter who elected an optional allowance under this Code section with the spouse
 99 designated as the person to receive all amounts upon the death of the retired member.

100 (2) In the event a designated spouse predeceases a retired member and the retired
 101 member subsequently remarries, the retired member may elect to begin receiving an
 102 actuarially reduced benefit of equivalent value and reestablish on behalf of the new
 103 spouse the same option which was applicable to the deceased former spouse, but such
 104 option on behalf of the new spouse may not be reestablished until one year after the date
 105 of remarriage or until a child of the remarried couple is born, whichever is earlier.

106 (3) This subsection applies to retired members who retired at any time prior to July 1,
 107 1992, as well as to those who retire on or after that date, and it is specifically provided
 108 that the election of option five under subsection (e.1) of this Code section is not necessary
 109 for the purposes of this subsection.

110 (e.3) **Certain Members Who Retired Prior to January 1, 2021, and Were Predeceased**
 111 **by a Designated Dependent Child.**

112 (1) As used in this subsection, the term 'retired member' means a person retired under
 113 this chapter who elected an optional allowance under this Code section with a child who
 114 qualifies as a dependent under the Internal Revenue Code of 1986 designated as the
 115 person to receive all amounts upon the death of the retired member.

116 (2) In the event a designated dependent child predeceases a retired member and the
 117 retired member is married or subsequently marries, the retired member may elect to begin
 118 receiving an actuarially reduced benefit of equivalent value and reestablish on behalf of
 119 the spouse the same option which was applicable to the deceased dependent child, but
 120 such option on behalf of the spouse may not be reestablished until one year after the date
 121 of the death of the dependent child or, in the case of the remarriage of the retired member,
 122 one year after the date the retired member remarries.

123 (3) This subsection applies to retired members who retired ~~at any time~~ prior to ~~July 1,~~
 124 ~~1996, as well as to those who retire on or after that date~~ January 1, 2021.

125 (e.4) **Option Six.**

126 (1) Option six shall consist of a reduced retirement allowance together with a partial
 127 lump sum distribution. This option may be elected by any retiring member including
 128 members electing another optional allowance under this Code section except that this
 129 option shall not be available to members retiring pursuant to Code Section 47-2-123 or
 130 members subject to the requirements of subsection (e) of Code Section 47-2-120.

131 (2) The amount of the lump sum distribution under this subsection may not exceed the
 132 sum of 36 months of the monthly retirement allowance the retiring member would have
 133 received had he or she not elected the partial lump sum option. The partial lump sum
 134 distribution will be made as a single payment payable at the time the first monthly
 135 retirement allowance is paid to the retired member.

136 (f) **Optional Waiver for Option Three.** Any provisions of this Code section to the
 137 contrary notwithstanding, any member who has elected option three may waive the
 138 payment of one-half of the reduced retirement allowance payable to ~~the~~ any person
 139 nominated by the member by filing a written declaration of waiver with the board of
 140 trustees. The waiver of such payments to the person nominated shall not affect or increase
 141 the reduced retirement allowance payable during the life of the retired member or affect the
 142 conditions required by paragraph (2) of subsection (d) of this Code section, but such waiver
 143 shall merely act as a forfeiture of those allowances which would otherwise have been
 144 payable to the person nominated by the retired member.

145 (g) **Timing of Certain Payments Upon Death of Certain Members.** Any other
 146 provisions of this Code section or of this chapter to the contrary notwithstanding, the board
 147 of trustees may, by rule or regulation, require that when a member or a retired member dies
 148 and the beneficiary is a person other than the surviving spouse of the member, the benefits
 149 payable to the beneficiary shall be paid to the beneficiary within a definite time period
 150 immediately following the death of the member or retired member.

151 (h) **Elections Upon Divorce or Remarriage.**

152 (1) Whenever any retired member has elected an optional allowance under this Code
 153 section and the spouse is the person designated to receive all amounts and benefits upon
 154 the death of the retired member, the retired member may revoke the election at any time
 155 after the entry of a final judgment of complete divorce from the spouse so nominated or
 156 the retired member may elect to continue the optional allowance with the former spouse
 157 designated to receive all amounts and benefits upon the death of the retired member.

158 (2) Upon any such revocation or upon the death of the spouse of a retired member who
 159 had elected option five, the retired member may elect to begin receiving the maximum
 160 retirement allowance which the retired member would have been entitled to receive under
 161 this chapter.

162 (3) In the event any such retired member described in paragraph (1) or (2) of this
 163 subsection remarries after divorce from the former spouse and the former spouse was not
 164 continued as a beneficiary under the optional allowance after the divorce, the retired
 165 member may elect to begin receiving the applicable actuarially reduced retirement benefit
 166 of equivalent actuarial value and reestablish on behalf of the new spouse the same option
 167 which was applicable to the former spouse, but such option on behalf of the new spouse
 168 may not be reestablished until one year after the date of remarriage or until a child of the
 169 remarried couple is born, whichever is earlier.

170 (i) **Members Unmarried Upon Retirement.** Whenever any retired member was
 171 unmarried at the time of retirement and he or she has elected an optional allowance under
 172 this Code section and has named a designated beneficiary or beneficiaries to receive all

173 amounts and benefits upon the death of the retired member, the retired member may revoke
 174 the election at any time after the member marries or remarries and designate ~~the current~~ his
 175 or her spouse as the person to receive all amounts and benefits upon the death of the retired
 176 member. In such event, the member shall receive the applicable actuarially reduced
 177 retirement benefit of equivalent actuarial value and establish on behalf of the new spouse
 178 optional allowance two, three, four, or five, as provided in this Code section. Upon the
 179 death of such spouse or upon the entry of a final order of divorce, the provisions of
 180 subsection (h) of this Code section shall become applicable.

181 (j) **Refunds of Accumulated Contributions.**

182 (1) Upon the death of the retired member and then the death of the person designated to
 183 receive continuing retirement benefits under option two, three, four, or five, if the total
 184 monthly benefits paid to the retired member and to such person designated to receive
 185 continuing benefits, including any partial lump-sum distribution, do not equal or exceed
 186 the retired member's accumulated contributions at the time of his or her retirement, the
 187 difference shall be refunded to the person designated in writing by the retired member to
 188 receive such a refund of this difference. If no such person is designated to receive a
 189 refund of this difference, or if such designated person has predeceased the person
 190 designated to receive continuing monthly retirement benefits, or if such designees are the
 191 same person, this difference shall be paid to the estate of the person designated to receive
 192 continuing monthly retirement benefits.

193 (2) Upon the death of the person designated by the retired member to receive continuing
 194 monthly retirement benefits under option two, three, four, five, or six and then the death
 195 of the retired member, if the total monthly benefits paid to the retired member prior to his
 196 or her death, including any partial lump-sum distribution, do not equal or exceed the
 197 retired member's accumulated contributions at the time of his or her retirement, the
 198 difference shall be refunded to the person designated in writing by the retired member to
 199 receive such a refund of this difference. If the person designated by the retired member
 200 to receive a refund of this difference also predeceases the retired member, or if such
 201 designees are the same person, or if no person is designated to receive a refund of this
 202 difference, this difference shall be paid to the estate of the retired member."

203 **SECTION 2.**

204 This Act shall become effective on July 1, 2020, only if it is determined to have been
 205 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
 206 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
 207 become effective and shall be automatically repealed in its entirety on July 1, 2020, as
 208 required by subsection (a) of Code Section 47-20-50.

209

SECTION 3.

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