

Senate Bill 327

By: Senator Williams of the 25th

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 permit certain persons who would otherwise be required to be members
3 of the Public School Employees Retirement System to make an irrevocable election to
4 become members of the Teachers Retirement System of Georgia; to provide for conditions;
5 to prohibit transfers of creditable service; to provide for related matters; to provide conditions
6 for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
10 amended in Chapter 3, relating to the Teachers Retirement System of Georgia, by revising
11 paragraph (28) of Code Section 47-3-1, relating to definitions, as follows:

12 "(28) 'Teacher' means a permanent status employee employed not less than half time as
13 follows:

14 (A) Employees of a public school or a local board of education with the exception of
15 those employees required to be members of the Public School Employees Retirement
16 System as governed by Chapter 4 of this title;

17 (B) Public school lunchroom managers or supervisors, maintenance managers or
18 supervisors, transportation managers or supervisors, and warehouse managers or
19 supervisors who elect to participate in the retirement system pursuant to Code Section
20 47-3-63;

21 (C) Employees of the Board of Regents of the University System of Georgia with the
22 exception of those employees who elect to participate in the Regents Retirement Plan
23 as governed by Chapter 21 of this title and maintenance and custodial employees
24 employed prior to July 1, 1978, who elected to forgo membership;

25 (D) Employees of any regional educational service agency created pursuant to Part 11
26 of Article 6 of Chapter 2 of Title 20;

27 (E) Certified professional personnel employed for the first time by the Department of
28 Education on and after July 1, 1983, unless such personnel elect membership in the
29 Employees' Retirement System of Georgia pursuant to subsection (h) of Code Section
30 47-3-60, and any employee of the Department of Education employed in a teaching,
31 supervisory, or clerical capacity;

32 (F) Certified professional personnel employed by the Department of Education and
33 who become members of this retirement system pursuant to the authority of subsection
34 (i) of Code Section 47-3-60;

35 (G) Professional personnel employed for the first time by the Technical College
36 System of Georgia on and after July 1, 1985, and all nonprofessional personnel
37 employed for the first time after July 1, 1987, by postsecondary vocational-technical
38 schools governed by the Technical College System of Georgia if otherwise eligible
39 under laws, rules, and regulations, unless such personnel elect membership in the
40 Employees' Retirement System of Georgia pursuant to subsection (j) of Code Section
41 47-3-60;

42 (H) Personnel employed by the Department of Education who are authorized to elect
 43 and elect to become or remain members of the retirement system pursuant to the
 44 applicable provisions of Code Section 47-3-60;

45 (I) Employees of any school operated by the Department of Education; ~~and~~

46 (J) Librarians and clerical personnel employed by regional and county libraries. Any
 47 of such librarians and clerical personnel who were members of a local retirement
 48 system on January 1, 1977, and who elected to remain members of such local
 49 retirement system shall not be required to become members of this retirement system,
 50 or if they were members of this retirement system on that date, they may withdraw from
 51 such membership. This election must have been made, in writing, to the board of
 52 trustees by not later than January 1, 1978. Any of such librarians and clerical personnel
 53 failing to so notify the board of trustees by that date shall be members of this retirement
 54 system; and

55 (K) Any person who would have been a member of the Public School Employees
 56 Retirement System established under Chapter 4 of this title, except that he or she made
 57 an irrevocable election to participate in this retirement system pursuant to the
 58 provisions of Code Section 47-3-69 and subsection (f) or (g) of Code Section 47-4-40.

59 The term 'teacher' shall not be deemed to include any emergency or temporary employee.
 60 The term 'teacher' shall not include an individual classified by an employer as an
 61 independent contractor or a leased employee within the meaning of Section 414(n) of the
 62 federal Internal Revenue Code, even if such individual is later reclassified by the Internal
 63 Revenue Service as a common law employee. The board of trustees shall determine in
 64 doubtful cases whether any person is included within the definition set forth in this
 65 paragraph."

66 **SECTION 2.**

67 Said title is further amended in said chapter by adding a new Code section to read as follows:

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68 "47-3-69.

69 (a) Each eligible person who makes an irrevocable election to become a member of this
70 retirement system pursuant to subsection (f) or (g) of Code Section 47-4-40 shall become
71 a member of this retirement system subject to the provisions of this chapter at such time
72 except as provided otherwise in this Code section or subsection (f) or (g) of Code Section
73 47-4-40. Upon becoming a member, he or she shall begin making the employee
74 contributions required by Code Section 47-3-40, his or her employer shall begin making
75 the employer contributions required by paragraph (1) of Code Section 47-3-43, and the
76 state shall pay its share as required by paragraph (2) of Code Section 47-3-43.

77 (b) No person who becomes a member of this retirement system pursuant to subsection (f)
78 or (g) of Code Section 47-4-40 shall be eligible for any creditable service in this retirement
79 system based upon creditable service earned as a member of the Public School Employees
80 Retirement System."

81 **SECTION 3.**

82 Said title is further amended in Chapter 4, relating to the Public School Employees
83 Retirement System, by revising paragraph (20) of Code Section 47-4-2, relating to
84 definitions, as follows:

85 "(20) 'Public school employee' or 'employee' means:

86 (A) All ~~at~~ those employees of public schools including postsecondary
87 vocational-technical schools governed by the Technical College System of Georgia
88 who are not eligible for membership in the Teachers Retirement System of Georgia or
89 the Employees' Retirement System of Georgia. The term specifically includes, but is
90 not limited to, school bus drivers, school lunchroom personnel, school maintenance
91 personnel, and school custodial personnel.

92 (B) The term does not include teachers or any school personnel who are now, or may
93 hereafter become, covered by the Teachers Retirement System of Georgia or the

94 Employees' Retirement System of Georgia, any person on the payroll of a third party
95 with whom an employer has contracted for the provision of such person's services, or
96 any person classified by an employer as other than a common law employee for federal
97 tax purposes, even if a court or administrative agency determines that such person is a
98 common law employee and not an independent contractor for federal tax purposes.
99 (C) Certain public school employees, as defined in subparagraph (A) of this
100 paragraph, shall have the option to become members of the Teachers Retirement
101 System of Georgia in accordance with subsection (d), (f), or (g) of Code Section
102 47-4-40 or to become members of the Employees' Retirement System of Georgia in
103 accordance with subsection (e) of Code Section 47-4-40, and except as provided by
104 such subsections, any public school employee becoming a member of the Teachers
105 Retirement System of Georgia or the Employees' Retirement System of Georgia shall
106 cease to be a member of the retirement system created by this chapter."

107 **SECTION 4.**

108 Said title is further amended in said chapter by adding two new subsections to Code Section
109 47-4-40, relating to eligibility, leaves of absence, termination, and transfer of service credits,
110 to read as follows:

111 "(f)(1) Any person who, on or after September 2, 2024, becomes a permanent status
112 employee employed not less than half time and subject to the provisions of subsection (a)
113 of this Code section may make a one-time irrevocable election to become a member of
114 the Teachers Retirement System of Georgia in accordance with the provisions of this
115 subsection and Code Section 47-3-69. Such election shall be made within 60 days after
116 becoming so employed and shall be exercised by notification, in writing, to the respective
117 boards of trustees of such retirement systems.

118 (2) No person who makes the election allowed by paragraph (1) of this subsection shall:

119 (A) Become a member of this retirement system; or

120 (B) Be eligible to transfer any creditable service from this retirement system to the
121 Teachers Retirement System of Georgia.

122 (3) It shall be the duty and responsibility of local units of administration and
123 postsecondary vocational-technical schools governed by the Technical College System
124 of Georgia to notify persons who become employed and are eligible to make an election
125 pursuant to paragraph (1) of this subsection of such option and to furnish such employees
126 appropriate forms for the exercise of such option.

127 (g)(1) Each contributing member of this retirement system who is a permanent status
128 employee employed not less than half time on September 1, 2024, shall have the option
129 to make an irrevocable election on or before November 1, 2024, to become a member of
130 the Teachers Retirement System of Georgia in accordance with the provisions of this
131 subsection and Code Section 47-3-69.

132 (2) No person who makes the election allowed by paragraph (1) of this subsection shall:

133 (A) Become a member of this retirement system; or

134 (B) Be eligible to transfer any creditable service from this retirement system to the
135 Teachers Retirement System of Georgia.

136 (3) Any person who makes the election allowed by paragraph (1) of this subsection who
137 has ten or more years of creditable service under this chapter may:

138 (A) Withdraw their accumulated contributions from the fund, and upon withdrawing
139 such contributions such personnel shall cease to be members of the retirement system;

140 or

141 (B) Elect to allow their accumulated contributions to remain in the fund, and such
142 personnel shall retain the vested rights established by Code Section 47-4-100. Upon
143 exercising such option, however, any such personnel shall cease making contributions
144 to the retirement system, and no additional creditable service shall be allowed under the
145 retirement system.

146 (4) For any person who makes the election allowed by paragraph (1) of this subsection
147 with less than ten years of creditable service under this chapter, such person shall
148 withdraw his or her accumulated contributions from the fund and thereupon cease to be
149 a member of the retirement system.

150 (5) It shall be the duty and responsibility of local units of administration and
151 postsecondary vocational-technical schools governed by the Technical College System
152 of Georgia to notify their employees who are eligible to make an election pursuant to
153 paragraph (1) of this subsection of such option and to furnish such employees appropriate
154 forms for the exercise of such option."

155 **SECTION 5.**

156 This Act shall become effective on July 1, 2024, only if it is determined to have been
157 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
158 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
159 become effective and shall be automatically repealed in its entirety on July 1, 2024, as
160 required by subsection (a) of Code Section 47-20-50.

161 **SECTION 6.**

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