

House Bill 335

By: Representatives Corbett of the 174<sup>th</sup>, Erwin of the 32<sup>nd</sup>, Meeks of the 178<sup>th</sup>, Greene of the 154<sup>th</sup>, and Williams of the 148<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 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;

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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 other than actual membership service and military creditable service pursuant to  
80 Code Section 47-1-62."

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 amend 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 ten 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 to the Teachers Retirement System of  
121 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 to become a member of the Teachers Retirement System  
130 of Georgia in accordance with the provisions of this subsection and Code Section  
131 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 to the Teachers Retirement System of  
135 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.