

House Bill 361(AS PASSED HOUSE AND SENATE)

By: Representatives Willard of the 51<sup>st</sup>, Jones of the 47<sup>th</sup>, Dollar of the 45<sup>th</sup>, Martin of the 49<sup>th</sup>, Golick of the 40<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act providing in Fulton County a system for pension and retirement to pay  
2 teachers and employees of the Board of Education of Fulton County, approved February 2,  
3 1945 (Ga. L. 1945, p. 528), as amended, particularly by an Act approved May 11, 2009 (Ga.  
4 L. 2009, p. 4004), an Act approved April 11, 2012 (Ga. L. 2012, p. 4982), and an Act  
5 approved May 6, 2013 (Ga. L. 2013, p. 4026), so as to provide that contributions made into  
6 the pension and retirement plan by employees shall be considered employer contributions for  
7 tax purposes; to repeal a certain provision relating to employee contributions paid by the  
8 employer; to provide that the Board of Education of Fulton County shall administer the plan;  
9 to provide for a pension board; to provide for members and terms; to provide for the filling  
10 of vacancies; to provide for officers; to provide for rules and regulations; to provide for  
11 conflicts of interest; to provide for related matters; to repeal conflicting laws; and for other  
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 An Act providing in Fulton County a system for pension and retirement to pay teachers and  
16 employees of the Board of Education of Fulton County, approved February 2, 1945 (Ga. L.  
17 1945, p. 528), as amended, particularly by an Act approved May 11, 2009 (Ga. L. 2009, p.  
18 4004), an Act approved April 11, 2012 (Ga. L. 2012, p. 4982), and an Act approved May 6,  
19 2013 (Ga. L. 2013, p. 4026), is amended by revising subsection (e) of Section 2.07 as  
20 follows:

21 "(e) Employee contributions made on or after July 1, 1990, shall be treated as employer  
22 contributions for purposes of determining the tax treatment of such contributions pursuant  
23 to Section 414(h) of the Code and these contributions shall not be included as gross income  
24 of the employee until such time as they are distributed or made available."

25 **SECTION 2.**

26 Said Act is further amended by repealing subsection (f) of Section 2.07.

27 **SECTION 3.**

28 Said Act is further amended by revising Section 12.01 as follows:

29 "SECTION 12.01.

30 Pension board, appointment, and term of office.

31 (a) The Board of Education of Fulton County shall be the plan sponsor and funding agent  
32 and shall have full responsibility and authority for interpreting and implementing the plan.

33 (b) Administration of the plan shall be carried out under the direction of the board of  
34 education by a committee of the board of education which shall be known as the 'pension  
35 board' and which shall consist of seven voting members and one nonvoting member.  
36 Except as otherwise provided in subsection (b.1) of this section, members shall be qualified  
37 and chosen as follows:

38 (1) The superintendent of the Fulton County School System, ex officio, who shall not  
39 have a vote;

40 (2) The chief financial officer of the Fulton County School System, ex officio;

41 (3) The chief human resources officer of the Fulton County School System, ex officio;  
42 and

43 (4) Two members nominated by the pension board and appointed by the board of  
44 education who shall be former teachers or employees of the board of education and who  
45 shall be pensioners;

46 (5) Two members nominated by the pension board and appointed by the board of  
47 education who shall be active teachers or employees of the board of education and  
48 participants in the plan; and

49 (6) One member nominated by the pension board and appointed by the board of  
50 education who shall be an active or former school administrator within the Fulton County  
51 School System and a participant in the plan.

52 (b.1)(1) The terms of office of the members of the pension board serving on the effective  
53 date of this Act shall end on May 31, 2018. The members of the pension board selected  
54 under paragraphs (1), (2), and (3) of subsection (b) of this section shall take office on  
55 June 1, 2018, and serve during the term of the qualifying office, provided that such  
56 individuals serving in such a qualifying office on an acting or interim basis shall serve  
57 during their acting or interim tenure in the qualifying office and until their successors are  
58 appointed and qualified. All other members qualified and appointed as provided for in

59 subsection (b) of this section shall take office on June 1, 2018, and serve terms as  
60 described within this subsection. One member appointed under paragraph (4) of  
61 subsection (b) of this section shall serve for a one-year term and one member appointed  
62 under such paragraph shall serve for a two-year term. One member appointed under  
63 paragraph (5) of subsection (b) of this section shall serve for a three-year term and one  
64 member appointed under such paragraph shall serve a four-year term. The member  
65 appointed under paragraph (6) of subsection (b) of this section shall serve a four-year  
66 term. After the completion of the initial term of office commencing on June 1, 2018, any  
67 subsequent member as appointed pursuant to subsection (b) of this section shall serve a  
68 term of four years. There shall be no limit on the number of terms a member appointed  
69 to the pension board may serve.

70 (2) If at any time the pension board has four or more vacancies, the nomination process  
71 provided by paragraphs (4), (5), and (6) of subsection (b) of this section shall be  
72 suspended in part and the board of education shall appoint members to any vacant  
73 positions on the pension board from the participation group from which the vacancy  
74 occurs.

75 (3) If the board of education fails to confirm two successive pension board nominations  
76 for membership to the pension board, then the board of education shall appoint a member  
77 to that position from the participation group from which the vacancy occurs.

78 (4) Members of the pension board shall serve at the pleasure of the board of education.  
79 The board of education may by majority vote remove any member of the pension board  
80 without notice or hearing.

81 (c) In the event of the death, resignation, removal, or other disability of a pension board  
82 member which renders him or her incapable of performing the duties of a member of the  
83 pension board during his or her or her term of office, such pension board member's  
84 replacement shall be selected in the manner specified in subsection (b) of this section for  
85 such position and shall serve the remaining balance of such term of office. A member  
86 selected as a replacement under the conditions of this subsection may be reappointed to the  
87 board upon expiration of the term of office and there shall be no limit on the number of  
88 terms he or she may serve.

89 (d) The superintendent of the Fulton County School System or his or her designee shall  
90 serve as chairperson of the pension board. The pension board shall elect one member to  
91 serve as secretary and shall hold a regular public meeting at least once a month at a time  
92 and place to be fixed by the pension board. The members of the pension board shall serve  
93 without pay. The pension board may employ an executive director and other personnel  
94 who shall serve at the will of and under the direction of the superintendent of the Fulton  
95 County School System. With the consent of the board of education, such executive

96 director shall be treated as an employee of the Fulton County Board of Education for  
97 benefits and tax reporting purposes.

98 (e) The pension board shall have the authority, subject to the approval of the board of  
99 education, to adopt rules and regulations in the administration of this Act and in carrying  
100 out the provisions of this Act and to provide for the equitable disposition of any matter not  
101 specifically covered by the provisions of this Act; provided, however, that all such rules  
102 and regulations shall be consistent with the terms and spirit of this Act.

103 (f) The chief financial officer of the Fulton County School System shall be designated as  
104 the treasurer and custodian of this plan and shall be subject to the direction of the  
105 superintendent of the Fulton County School System for the purpose of carrying out his or  
106 her duties under the plan. Whenever any pension has been granted by the pension board,  
107 a check shall be drawn on the pension fund, providing for the payment of the pension as  
108 the same matures, and shall be signed by the chairperson of the pension board and  
109 countersigned and paid by the treasurer.

110 (g) Four members of the pension board shall constitute a quorum, and notice by the  
111 secretary shall be given for special or called meetings of the pension board. The  
112 chairperson of the pension board shall provide a bond with a good corporate surety in the  
113 sum of not less than \$5,000.00 for his or her faithful performance as chairperson of the  
114 pension board, and the treasurer shall provide a bond with a good corporate surety in the  
115 sum of not less than \$25,000.00 for his or her faithful performance as treasurer and  
116 custodian of the plan. The premiums on such bonds shall be an expense of this plan.

117 (h) Except as otherwise provided in the plan, no member or employee of the pension board  
118 shall have any personal interest in the gains or profits from any investment made by the  
119 pension board or use the assets of this plan in any manner, directly or indirectly, for himself  
120 or herself or as an agent, except to make such payments as are authorized by the pension  
121 board in accordance with the plan."

122 **SECTION 4.**

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