

Senate Bill 129

By: Senators Hufstetler of the 52nd, Harbison of the 15th, Black of the 8th and Orrock of the 36th

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 provide that an election to participate in the Regents Retirement Plan in  
3 lieu of the Teachers Retirement System of Georgia shall be revocable at will; to provide that  
4 persons who made an irrevocable election for such participation may nonetheless elect to  
5 participate in the Teachers Retirement System of Georgia; to provide for creditable service;  
6 to provide for application and transfer of funds; to provide for related matters; to provide  
7 conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is  
12 amended by revising Code Section 47-3-68, relating to membership of eligible university  
13 system employees in the Teachers Retirement System of Georgia, as follows:

14 "47-3-68.

15 (a)(1) The provisions of this paragraph shall apply to persons employed prior to  
16 July 1, 2008. As used in this Code section, the term 'eligible university system employee'  
17 means faculty and principal administrators employed by the University System of  
18 Georgia, as designated by regulations of the Board of Regents of the University System  
19 of Georgia, who are:

20 (A) Employed on or after July 1, 1990, and are eligible for membership in the  
21 retirement system provided for in this chapter as of the date of employment; or

22 (B) Members of the retirement system provided for in this chapter on July 1, 1990,  
23 with less than ten years of creditable service on that date.

24 (2) The provisions of this paragraph shall apply to persons first or again employed on or  
25 after July 1, 2008. As used in this Code section, the term 'eligible university system  
26 employee' means faculty members or exempt employees within the meaning of the

27 federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Section 201, et seq.,  
28 who are eligible for membership in the retirement system provided for in this chapter as  
29 of the date of such employment.

30 (b) Any other provisions of this chapter to the contrary notwithstanding, any eligible  
31 university system employee may withdraw from or decline membership in the retirement  
32 system provided for in this chapter and participate in the optional retirement plan provided  
33 for in Chapter 21 of this title as provided in this Code section.

34 (c) Members of the retirement system provided for in this chapter who were eligible  
35 university system employees on July 1, 1990, shall have the option to withdraw from this  
36 retirement system and participate in the optional retirement plan provided for in Chapter 21  
37 of this title. Members exercising said option, which shall be irrevocable except for the  
38 revocation provided in subsection (g) of this Code section, shall forfeit all rights under this  
39 retirement system except that they shall have the right to have their accumulated  
40 contributions under this retirement system transferred to the optional retirement plan.  
41 Upon such election's becoming effective, the board of trustees shall transfer the member's  
42 accumulated contributions directly to the optional retirement plan to purchase benefits  
43 thereunder and the funds so transferred will not be made available to the member except  
44 as a participant in the optional retirement plan. The option provided for in this Code  
45 section shall be exercised by filing a written notification thereof with the board of trustees  
46 and with the employer by not later than July 31, 1991. The effective date of the option and  
47 transfer for each member who elects to become a new participant in the optional retirement  
48 plan shall be August 1, 1991. The failure to exercise the option by July 31, 1991, shall be  
49 an irrevocable election to remain a member of this retirement system; provided, however,  
50 that such irrevocable decision may be revoked as provided in subsection (g) of this Code  
51 section.

52 (d) Eligible university system employees employed on or after July 1, 1990, shall,  
53 within 30 days immediately following the effective date of their employment, make an  
54 irrevocable decision to be a member of this retirement system or participate in the optional  
55 retirement plan provided for in Chapter 21 of this title; provided, however, that such  
56 employees employed on or after July 1, 1995, shall make such irrevocable decision  
57 within 60 days immediately following the effective date of their employment; provided,  
58 however, that such irrevocable decision may be revoked as provided in subsection (g) of  
59 this Code section. A written statement of the decision shall be filed with the employer and  
60 with the board of trustees and shall be effective from the date of employment. If an eligible  
61 university system employee fails to file a statement of decision provided for in this  
62 subsection, such failure shall be an irrevocable election to become a member of the

63 retirement system provided for in this chapter; provided, however, that such irrevocable  
64 decision may be revoked as provided in subsection (g) of this Code section.

65 (e) Any former member of this retirement system who is presently a participant in the  
66 optional retirement plan provided for in Chapter 21 of this title shall have the right to have  
67 the former member's accumulated contributions to this retirement system transferred to said  
68 optional retirement plan. Such right shall be exercised by filing a written notification  
69 thereof with the board of trustees by not later than July 31, 1991. After receiving such  
70 notification, the board of trustees shall, by not later than October 1, 1991, transfer the  
71 former member's accumulated contributions directly to the optional retirement plan to  
72 purchase benefits thereunder and the funds so transferred will not be made available to the  
73 former member except as a participant in the optional retirement plan.

74 (f) Any member of this retirement system who was employed on July 1, 2004, as an  
75 assistant coach by the athletic department of a state university may make an irrevocable  
76 decision to participate in the optional retirement plan provided by Chapter 21 of this title;  
77 provided, however, that such irrevocable decision may be revoked as provided in  
78 subsection (g) of this Code section. Such election shall be made to the employer and the  
79 board of trustees not later than August 31, 2004. The board of trustees shall transfer to  
80 such member's account in such optional retirement plan all employer and employee  
81 contributions made by or on behalf of such member together with regular interest thereon.

82 (g)(1) Any eligible university system employee who made an irrevocable decision to  
83 decline membership in this retirement system and participate in the Regents Retirement  
84 Plan created by Chapter 21 of this title may nevertheless revoke such election and  
85 become or again become a member of this retirement system as provided in this  
86 subsection.

87 (2) Any person desiring to revoke his or her participation in the Regents Retirement Plan  
88 as provided in paragraph (1) of this subsection shall notify the board of trustees of this  
89 retirement system in such manner as the board shall deem appropriate, and such person  
90 shall become an active member of this retirement system on the first day of the month  
91 following the month in which such notification is received by the board.

92 (3)(A) Any person who becomes a member of this retirement system pursuant to  
93 paragraph (2) of this subsection may obtain creditable service for prior service while  
94 he or she was participating in the Regents Retirement Plan. The member may obtain  
95 credit for all or any portion of such prior service. Such creditable service shall be  
96 obtained through a one-time application and upon a one-time payment to the board of  
97 trustees. Payment may be made by instrument or by a direct rollover from another  
98 eligible retirement plan including, without limitation, the Regents Retirement Plan, but  
99 only if such rollover is authorized by the federal Internal Revenue Code. Upon receipt

100 of such funds, the board of trustees shall credit the member with only so much  
101 creditable service as such amount will warrant without creating any actuarial accrued  
102 unfunded liability as to this retirement system, up to the actual number of years of  
103 eligible prior service as calculated by the board of trustees.

104 (B) Any person desiring to exercise the election provided by this paragraph shall  
105 submit his or her application, together with any sum he or she desires to pay or transfer  
106 to this retirement system, as follows:

107 (i) For any person who is in employment on July 1, 2020, who has at least five years  
108 of employment as an eligible university system employee, not later than  
109 December 31, 2020;

110 (ii) For any person who is in employment on July 1, 2020, who has less than five  
111 years of employment as an eligible university system employee, any time during the  
112 sixth year of his or her employment as an eligible university system employee; and

113 (iii) For any person who first or again becomes employed as an eligible university  
114 system employee after July 1, 2020, any time during the sixth year of his or her  
115 employment as an eligible university system employee."

116 **SECTION 2.**

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

122 **SECTION 3.**

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