

offers the following  
substitute to HB 109:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapters 1 and 3 of Title 47 of the Official Code of Georgia Annotated, relating to general provisions regarding retirement and pensions and the Teachers Retirement System of Georgia, respectively, so as to provide for an annual inflationary index rate to be published by the state auditor; to modify conditions of the Teachers Retirement System of Georgia for individuals who first become members or who withdraw their accumulated contributions on or after July 1, 2020; to revise the computation of earnable compensation; to revise the definition of average final compensation; to modify the employee contribution rate; to prohibit creditable service for unused sick leave; to modify provisions for normal retirement age; to modify the vesting period; to modify computation of postretirement benefit adjustments; to require the board of trustees of the Teachers Retirement System of Georgia to revise plan documents, complete an actuarial valuation, and adjust employer and state contribution rates accordingly; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 1 of Title 47 of the Official Code of Georgia Annotated, relating to general provisions regarding retirement and pensions, is amended by adding a new Code section to read as follows:

"47-1-32.

(a)(1) The state auditor shall establish a method for determining annual inflationary index rates which shall reflect the effects of inflation and deflation on cost-of-living for residents of this state for a given calendar year.

(2) Such method may utilize the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor or any other similar index established by the federal government, if the state auditor determines that such federal index fairly reflects the effects of inflation and deflation on residents of this state.

27           (b) On or before August 1, 2020, and on March 1 of each year thereafter, the state auditor  
28        shall publish such inflationary index rate based upon data from the prior calendar year."

29           SECTION 2.

30       Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to the Teachers  
31       Retirement System of Georgia, is amended by revising paragraphs (6) and (11) of Code  
32       Section 47-3-1, relating to definitions, as follows:

33       "(6) 'Average final compensation' means:

34           (A) For an individual who first became a member prior to July 1, 2020, and who did  
35        not withdraw his or her accumulated contributions on or after July 1, 2020, the average  
36        annual earnable compensation of a teacher such individual during the two consecutive  
37        years of membership service producing the highest such average; and

38           (B) For an individual who first becomes a member or who withdraws his or her  
39        accumulated contributions on or after July 1, 2020, the average annual earnable  
40        compensation of such individual during the five consecutive years of membership  
41        service producing the highest such average."

42       "(11) 'Earnable compensation' means the full rate of regular compensation payable to a  
43        member for his or her full normal working time and includes compensation paid to a  
44        member by an employer from grants or contracts made by outside agencies with the  
45        employer; provided, however, that:

46           (A) All moneys paid by an employer for a member or by a member into any plan of tax  
47        sheltered annuity shall be included as earnable compensation for the purpose of  
48        computing any contributions required to be made to the retirement system and also for  
49        the purpose of computing any benefits or allowances payable under this chapter; and

50           (B) Such term shall include contributions made to a qualified transportation plan,  
51        within the meaning of Section 132(f) of the federal Internal Revenue Code, and before  
52        tax or salary deferral contributions made under Sections 125, 401(k), 402(g)(3), 457,  
53        or 414(h) of the federal Internal Revenue Code to this retirement system or to any other  
54        retirement plan maintained by an employer; and

55           (C) For an individual who first becomes a member or who withdraws his or her  
56        accumulated contributions on or after July 1, 2020, earnable compensation shall not  
57        exceed \$200,000.00; provided, however, that such maximum amount shall increase on  
58        July 1, 2021, and annually thereafter by an amount equal to the lesser of 3 percent or  
59        the prior calendar year's annual inflationary index rate published pursuant to Code  
60        Section 47-1-32."

**SECTION 3.**

Said chapter is further amended by revising Code Section 47-3-41, relating to annuity savings fund generally, as follows:

"47-3-41.

(a) The annuity savings fund shall be the fund in which shall be accumulated the contributions deducted from the compensation of members to provide for their annuities.

Contributions to and payments from the annuity savings fund shall be made as follows:

(1)(A) After the commencement date, each employer shall cause to be deducted from the salary of each member for each and every payroll period a percentage of the member's earnable compensation as determined by the board of trustees which shall be:

(i) For an individual who first became a member prior to July 1, 2020, and who did not withdraw his or her accumulated contributions on or after July 1, 2020, not less than 5 nor more than 6 percent; but no such and

(ii) For an individual who first becomes a member or who withdraws his or her accumulated contributions on or after July 1, 2020, not less than 6 nor more than 8.5 percent. Such percentage shall be determined annually by the board of trustees and shall reflect needs of the fiscal state of the retirement system.

(B) A deduction shall not be made from the compensation of a member after the close of the school, fiscal, or contract year in which the member has attained age 65 and has completed 40 or more years of creditable service.

(C)(i) In determining the amount earnable by a member in a payroll period, the employer may consider the annual rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period. The employer may omit the deduction from compensation for any period which is less than a full payroll period, if a teacher was not a member on the first day of the payroll period.

(ii) In order to facilitate the making of deductions, the employer may modify the deductions required of any member by an amount not to exceed one-tenth of 1 percent of the annual compensation, on the basis of which such deductions are to be made.

(iii) Each employer shall immediately pay the amount deducted to the board of trustees, in such manner as the board of trustees shall prescribe, which amount shall be credited by the board of trustees to the individual accounts in the annuity savings fund of the member from whose compensation the deductions were made.

(iv) Beginning July 1, 1987, the employee contributions required under this paragraph shall be paid as provided in Code Section 47-3-41.1;

(2) Notwithstanding any other provisions of this subsection, at the close of any school, fiscal, or contract year in which a member has completed 40 or more years of creditable

98 service, such member may elect in writing to cease making contributions to the retirement  
99 system. If such election is made, such teacher shall notify his or her employer and the  
100 board of trustees in such manner as the board of trustees shall prescribe. After giving the  
101 required notice, the employer shall not thereafter deduct, and the employee shall not  
102 thereafter be allowed to make, contributions to the retirement system from the salary or  
103 compensation of such member;

104 (3) Any other provision of this or any other law to the contrary notwithstanding, a  
105 member who has attained age 65 and who has completed 40 or more years of creditable  
106 service may elect to continue to make contributions to the retirement system during such  
107 continuous period of time as the member continues in service. He or she shall notify his  
108 or her employer and the board of trustees of such election in such manner as the board  
109 of trustees shall provide. Any member who has discontinued making contributions to the  
110 retirement system because he or she has attained age 65 and has 40 years of creditable  
111 service and who has continued in service may remit contributions to the board of trustees  
112 at the rate required by law and under terms and regulations prescribed by the board of  
113 trustees on all earnable compensation received by the member since deductions were  
114 discontinued. Contributions made under this paragraph shall entitle the member to  
115 creditable service for such period, but only for the purpose of determining average  
116 compensation over the highest consecutive years, used in the calculations of the  
117 retirement benefits of such member; and

118 (4) Employer deductions shall be made, notwithstanding that the minimum compensation  
119 provided for by law for any member shall be reduced thereby. Every member shall be  
120 deemed to consent and agree to the deductions and payment of salary or compensation,  
121 less such deductions, shall be a full and complete discharge and acquittance of all claims  
122 and demands whatsoever for the services rendered by such person during the period  
123 covered by such payment, except as to the benefits under this chapter.

124 (b) Notwithstanding subsection (a) of this Code section, no deductions shall be made from  
125 a member's salary if the employer's contribution as to such member is in default.

126 (c) The contributions withdrawn by a member or payable in the event of his or her death  
127 shall be paid from the annuity savings fund and any balance of the accumulated  
128 contributions standing to the credit of his or her individual account shall be transferred  
129 from the annuity savings fund to the pension accumulation fund.

130 (d) Upon the retirement of a member, his or her accumulated contributions shall be  
131 transferred from the annuity savings fund to the pension accumulation fund."

**SECTION 4.**

Said chapter is further amended by revising subsection (e) of Code Section 47-3-92, relating to absence from employment because of sick leave and creditable service, as follows:

"(e) The creditable service provided by this Code section shall be available only to persons individuals who retire on or after July 1, 1998, but shall not apply to any individual who first becomes a member or who withdraws his or her accumulated contributions on or after July 1, 2020."

**SECTION 5.**

Said chapter is further amended by revising Code Section 47-3-101, relating to eligibility and application for retirement, retirement age, duration of benefits paid to a retired member, and payment to maintain Teachers Retirement System, as follows:

"47-3-101.

(a)(1) Any A member in service who first became a member prior to July 1, 2020, may retire upon written application to the board of trustees, provided that the member at the time of retirement:

(A) Has (1) has attained the age of 60 years and has at least ten years of creditable service; or

(B) Has (2) has at least 25 years of creditable service.

(2) The effective date of retirement will be the first of the month in which the application is received by the board of trustees; except that no retirement application will be effective earlier than the first of the month following the final month of the applicant's employment. Applications for retirement will not be accepted more than 180 days in advance of the effective date of retirement.

(3) Each employer shall certify to the board of trustees the date on which the employee's employment is or will be severed and that no agreement exists to allow the employee to return to service, including service as or for an independent contractor. Any return to employment or rendering of any paid service, including service as or for an independent contractor, for any employer during the calendar month of the effective date of retirement shall render the severance invalid and nullify the application for retirement.

(b) For purposes of this chapter, normal retirement age shall be:

(1) For an individual who first became a member prior to July 1, 2020, 60 years of age if the member has at least ten years of creditable service or the age of the member on the date he or she attains 30 years of creditable service, whichever event comes first; and

(2) For an individual who first becomes a member or who withdraws his or her accumulated contributions on or after July 1, 2020:

(A) The age at which such member's years of creditable service plus his or her age is equal to 85; or

(B) Sixty-two years of age if such member has at least ten years of membership service;

provided, however, that the provisions of this subsection shall be subject to change by future legislation in order to comply with federal regulations. Except as provided under Article 3 of Chapter 1 of this chapter, a member's right to his or her retirement allowance is nonforfeitable upon attainment of normal retirement age.

(c) The benefits payable under Code Section Sections 47-3-120 and under Code Section 47-3-122 shall be payable to the retired member for the remainder of his or her lifetime and shall be known as the maximum plan. Upon the death of the retired member, all monthly benefits shall cease as of the end of the month in which the retired member died. If the total monthly benefits paid at the time of the retired member's death are less than his the accumulated contributions at the time of his or her retirement, the difference between the benefits paid and such accumulated contributions shall be refunded to the person who has been designated in writing by the retired member or to the retired member's estate, if no such person has been designated or if such designated person has predeceased the retired member. This subsection shall not apply when an optional allowance has been selected by the member under Code Section 47-3-121.

(d) The board of trustees is authorized to provide by rule or regulation for the payment of benefits to members or beneficiaries of the retirement system at a time and under circumstances not provided for in this chapter to the extent that such payment is required to maintain the Teachers Retirement System of Georgia as a 'qualified retirement plan' for the purposes of federal income tax laws."

## **SECTION 6.**

Said chapter is further amended by revising subsection (a) of Code Section 47-3-102, relating to early retirement after 30 years' service, time for application, and payment by member of actuarial cost, as follows:

"(a)(1) As used in this Code section, the term 'school year' means a regular school year which begins during or near September of one year and ends during or near June of the following year.

(2) This Code section shall not apply to an individual who first becomes a member or who withdraws his or her accumulated contributions on or after July 1, 2020."

## **SECTION 7.**

Said chapter is further amended in Code Section 47-3-120, relating to allowance on service retirement, minimum retirement allowance, reduced allowance, increase, and computation of average compensation, by adding a new subsection to read as follows:

"(e) This Code section shall only apply to a member who first became a member prior to July 1, 2020. For a member who first becomes a member or who withdraws his or her accumulated contributions on or after July 1, 2020, Code Section 47-3-120.1 shall apply."

## **SECTION 8.**

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

"47-3-120.1.

(a) Upon service retirement, a member who first becomes a member or who withdraws his or her accumulated contributions on or after July 1, 2020, shall receive an allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement; and

(2) An annual pension which, together with the annuity set forth in paragraph (1) of this subsection, shall provide a total allowance equal to 2 percent of the member's average compensation over the five consecutive years of membership service producing the highest such average, multiplied by the number of the member's years of creditable service, not to exceed 40. The computation of average compensation for the purposes of this paragraph shall be subject to the requirements of subsection (b) of this Code section.

(b) No more than two increases in compensation granted during the five consecutive years on which average compensation is based under paragraph (2) of subsection (a) of this Code section shall be considered in the computation of such average compensation, provided that:

(1) For those members who are not employees of the Board of Regents of the University System of Georgia, that part of any such increase in compensation which exceeds a percentage equal to the average annual increase in compensation granted to classroom teachers by appropriations of the General Assembly, plus 2.5 percent of compensation received at the time the annual increase granted by appropriations becomes effective, shall not be considered in the computation of average compensation; and

(2) For those members who are employees of the Board of Regents of the University System of Georgia, that part of any such increase in compensation which exceeds a percentage equal to the average annual increase in compensation granted to academic personnel employed by such board of regents by appropriations of the General Assembly, plus 2.5 percent of compensation received at the time the annual increase granted by

appropriations becomes effective, shall not be considered in the computation of average compensation."

## SECTION 9

Said chapter is further amended by revising Code Section 47-3-126, relating to postretirement benefit adjustments, as follows:

"47-3-126

(a) Once each year, after the state auditor publishes within such year the annual inflationary index rate pursuant to Code Section 47-1-32, the The board of trustees is authorized to adopt a method of providing may grant one annual postretirement benefit adjustments for a beneficiary in his postretirement years. Such method of adjustment may result in the adoption by the board of trustees of a method of financing other than that described in paragraphs (1) through (3) of Code Section 47-3-43 and increase for beneficiaries that shall not exceed the lesser of 3 percent or the prior calendar year's annual inflationary index rate published pursuant to Code Section 47-1-32, provided that the board of trustees adopts a written determination granting such adjustment that shall be based upon:

- (1) Recommendation of the actuaries for the board of trustees; and
  - (2) Maintaining the actuarial soundness of the system.

The board of trustees may specify a minimum age which a beneficiary must have attained in order to be eligible for the postretirement benefit adjustment.

(b)(1) Any discretionary postretirement benefit increase granted by the board of trustees on or after July 1, 2020, shall be reduced by operation of law to an amount equal to the lesser of 3 percent or the rate of the annual inflationary index rate published within such year pursuant to Code Section 47-1-32. Any such increase granted which would cause an increase to occur more than once in a calendar year shall be reduced by operation of law to zero.

(2) The board of trustees shall not grant more than one annual postretirement benefit increase for beneficiaries in a calendar year.

(3) Any method of providing postretirement benefit adjustments adopted by the board of trustees on or before the effective date of this subsection that is inconsistent with this Code section shall terminate upon the effective date of this subsection.

(c) An individual who retires pursuant to subparagraph (b)(2)(A) of Code Section 47-3-101 shall not receive a postretirement benefit adjustment:

- (1) For at least three years after his or her retirement;

(2) More than once annually;

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(3) Prior to the publication within the year of the annual inflationary index rate pursuant to Code Section 47-1-32; or

(4) That exceeds the lesser of 3 percent or the rate of the annual inflationary index rate published within that year pursuant to Code Section 47-1-32."

## SECTION 10.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

## SECTION 11.

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