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RETIREMENT AND PENSIONS

Teachers Retirement System of Georgia: Permit Retired Teachers to Return to Service and Maintain Benefits; Define Terms Relating to Retirement; Provide Conditions Upon Which a School System May Employ a Retired Teacher

CODE SECTION:	O.C.G.A. § 47-3-127 (amended)
BILL NUMBER:	HB 210
ACT NUMBER:	764
GEORGIA LAWS:	2002 Ga. Laws 585
SUMMARY:	The Act allows retired teachers to return to teaching full-time while also drawing their retirement benefits. Specifically, the Act permits school systems to hire teachers who retired on or before December 31, 2001 to fill full-time vacancies. Additionally, the Act mandates that retired teachers return only to low-performing schools.
EFFECTIVE DATE:	July 1, 2002

History

At the beginning of the 2001-2002 school year, Georgia's schools had approximately 800 teacher vacancies, with no relief in sight.¹ While state schools hired over 12,000 new teachers in the year 2001, the annual need will likely exceed 20,000 in the next several years.² In an effort to improve academic performance and raise test scores, state school reform measures are pushing to reduce class size and to require that all teachers be highly qualified and fully certified.³ However, Georgia's colleges of education graduated just 3,500 students in 2001.⁴ The current and projected teacher shortage forces schools to fill vacancies any way they can, including hiring less

1. Ed Corson, *Rehired Retirees Could Help Lift Failing Schools*, MACON TELEGRAPH, Mar. 27, 2002, available in Westlaw, GANEWS.

2. James Salzer, *House Tackles Teacher Shortage*, ATLANTA J. CONST., Mar. 26, 2002, at D1.

3. Ed Corson, *Rehired Retirees Could Help Lift Failing Schools*, MACON TELEGRAPH, Mar. 27, 2002, available in Westlaw, GANEWS.

4. James Salzer, *House Tackles Teacher Shortage*, ATLANTA J. CONST., Mar. 26, 2002, at D1.

qualified teachers and permitting teachers to teach outside of their fields.⁵ These desperate measures are unlikely to do much to improve instruction in Georgia's classrooms.⁶

Georgia teachers are eligible for retirement when they reach 60 years of age and 10 years of service, or at any age if they have 30 years of service.⁷ Under current law, retired teachers who wish to return to the classroom may only work 49 percent of a full-time schedule if they want to continue to receive retirement benefits.⁸ These restrictions prompt many highly qualified, experienced teachers to cross into Tennessee, Alabama, and South Carolina school districts to earn a full-time salary.⁹

House Representatives worked with the Georgia Association of Educators (GAE) on a solution to relieve the teacher shortage in Georgia schools, and to keep qualified retirees from leaving Georgia to earn a full-time salary.¹⁰ The result was the creation of HB 210, which permits retired Georgia teachers to return to the classroom full-time and retain retirement benefits for up to five years.¹¹ The Legislature modeled the bill after measures adopted by other Southern states that allow retirees to draw benefits and return to the classroom full-time.¹²

However, after concern about the bill's projected cost threatened its survival, two late changes to the bill threatened its potential impact on Georgia's teacher shortage.¹³ Both the GAE and the bill's sponsors disagreed with the actuarial studies that projected a twenty-

5. Ed Corson, *Rehired Retirees Could Help Lift Failing Schools*, MACON TELEGRAPH, Mar. 27, 2002, available in Westlaw, GANEWS; Telephone Interview with Rep. Brooks P. Coleman, Jr. House District No. 80 (May 31, 2002) [hereinafter Coleman Interview].

6. Ed Corson, *Rehired Retirees Could Help Lift Failing Schools*, MACON TELEGRAPH, Mar. 27, 2002, available in Westlaw, GANEWS.

7. Melissa Hall, *County Forms Plan to Retain Teachers*, THE AUGUSTA CHRONICLE, Mar. 25, 2002, available in Westlaw, GANEWS.

8. 1943 Ga. Laws 640, § 6, at 641 (formerly found at O.C.G.A. § 47-3-127) (2001)); Coleman Interview, *supra* note 5; Melissa Hall, *County Forms Plan to Retain Teachers*, THE AUGUSTA CHRONICLE, Mar. 25, 2002, available in Westlaw, GANEWS.

9. James Salzer, *House Tackles Teacher Shortage*, ATLANTA J. CONST., Mar. 26, 2002, at D1; Coleman Interview, *supra* note 5.

10. Coleman Interview, *supra* note 5; Telephone Interview with Bob Cribbs, GAE Director of Government Relations (June 4, 2002) [hereinafter Cribbs Interview]; Audio Recording of House Proceedings, Mar. 25, 2002 (remarks by Rep. Louise McBee), at <http://www.state.ga.us/services/leg/audio/2002archive.html> [hereinafter House Audio].

11. Coleman Interview, *supra* note 5; House Audio, *supra* note 10 (remarks by Rep. Louise McBee).

12. James Salzer, *House Tackles Teacher Shortage*, ATLANTA J. CONST., Mar. 26, 2002, at D1.

13. Cribbs Interview, *supra* note 10.

six million dollar price tag for the bill.¹⁴ However, to reduce the bill's projected cost and to silence opposition, sponsors amended the bill with a provision limiting eligible participants to teachers already retired on or before December 1, 2001.¹⁵ Other states with return-to-service laws do not contain similar restrictions.¹⁶ Initial GAE projections suggest that only allowing teachers who had already retired by December 1, 2001 to return to the classroom will substantially reduce the effectiveness of the bill.¹⁷ Additionally, the Senate amended the bill to require retired teachers to return to certain schools with low test scores and low performance ratings.¹⁸ The Senate amendment will limit retired teachers to about 600 schools.¹⁹

Compared to earlier versions of the bill, the last-minute amendments to HB 210 reduced both the number of teachers who are eligible to return to the classroom and the number of schools to which they may return.²⁰ Retired teacher George Gastright reached thirty years of service just before December 1, 2001. He chose to teach the remainder of the school year before retiring, only to learn that the decision rendered him unable to take advantage of HB 210.²¹ Although only fifty-two, Gastright decided to retire because the difference between his salary and pension was simply not enough incentive to continue working full-time.²² However, if given the opportunity to return to work without suspending his pension benefits, Gastright would be able to offer several more years of experienced instruction and could help reduce the teacher shortage.²³ Gastright would consider returning to the classroom if the December

14. James Salzer, *Bad Economy Hurts Teachers' Incentive Plan*, ATLANTA J. CONST., Feb. 4, 2002, at C1, C4; Cribbs Interview, *supra* note 10.

15. Compare HB 210 (HFS), 2002 Ga. Gen. Assem., with HB 210, as introduced, 2002 Ga. Gen. Assem. See also Coleman Interview, *supra* note 5.

16. Cribbs Interview, *supra* note 10.

17. *Id.*

18. Compare HB 210 (SFA), 2002 Ga. Gen. Assem., with HB 210, as introduced, 2002 Ga. Gen. Assem. See also James Salzer, *Senate Oks Hiring Retired Teachers*, ATLANTA J. CONST., Apr. 4, 2002, at C4.

19. James Salzer, *Senate Oks Hiring Retired Teachers*, ATLANTA J. CONST., Apr. 4, 2002, at C4.

20. Compare HB 210, as passed, 2002 Ga. Gen. Assem., with HB 210, as introduced, 2002 Ga. Gen. Assem. See also Cribbs Interview, *supra* note 10.

21. Interview with George Gastright, retired teacher (June 15, 2002) [hereinafter Gastright Interview].

22. *Id.* Gastright explained that if he continued teaching full-time, his salary would be \$70,000 per year. His retirement pension is \$46,000 per year. In effect, if he continued teaching instead of drawing his retirement pension he would be working full-time essentially for \$24,000. *Id.*

23. Coleman Interview, *supra* note 5.

1, 2001 restriction were lifted.²⁴ However, the restrictions on the eligible schools could still prevent him from taking advantage of the opportunity to return to work.²⁵ After inquiring about the locations of eligible schools, Gastright learned that there are no such high schools in his area.²⁶ “Ideally, I would like to return to a school or at least an area I am familiar with.”²⁷

Supporters of HB 210 are optimistic that future bills will eliminate the restrictions on HB 210 and will allow teachers like Gastright to return to the classroom.²⁸ In the meantime, proponents applaud the bill as the first step towards eliminating Georgia’s teacher shortage.²⁹ “This is not everything we want to do, but it is a good first step.”³⁰

HB 210

Introduction

House Representatives Louise McBee of the 88th District, Bill Cummings of the 27th District, Ann Purcell of the 147th District, Maretta Taylor of the 134th District, and Brooks Coleman of the 80th District, sponsored HB 210.³¹ The bill was introduced in the House on January 24, 2001.³² The House assigned the bill to its Retirement Committee, which favorably reported the bill on February 11, 2002.³³ After a floor substitute, the House passed the bill on March 25, 2002, by a vote of 108 to 2.³⁴ On March 26, 2002, the Senate assigned the bill to its Retirement Committee, which favorably reported the bill on April 1, 2002.³⁵ The Senate created a floor amendment and passed the bill by a vote of 41 to 1 on April 3, 2002.³⁶ The House agreed to

24. Gastright Interview, *supra* note 21.

25. *Id.*

26. *Id.* See also James Salzer, *Details Bedevil Bush's School Plan*, ATLANTA J. CONST., at C1, C6 (listing schools that qualify as low-income, low-performing schools).

27. Gastright Interview, *supra* note 21.

28. Cribbs Interview, *supra* note 10; Coleman Interview, *supra* note 5.

29. *Id.*

30. Coleman Interview, *supra* note 5.

31. HB 210, as introduced, 2002 Ga. Gen. Assem.

32. State of Georgia Final Composite Status Sheet, HB 210, Apr. 12, 2002.

33. *Id.*

34. Georgia House of Representatives Voting Record, HB 210 (Mar. 25, 2002); State of Georgia Final Composite Status Sheet, HB 210, Apr. 12, 2002.

35. State of Georgia Final Composite Status Sheet, HB 210, Apr. 12, 2002.

36. Georgia Senate Voting Record, HB 210, (Apr. 3, 2002).

the Senate version,³⁷ and Governor Barnes signed the bill into law on May 9, 2002.³⁸

Consideration by the House

Upon introduction, the House assigned the bill to its Retirement Committee, which favorably reported the bill on February 11, 2002.³⁹

On March 25, 2002, Representative McBee presented the bill on the House floor.⁴⁰ The bill contained a floor substitute that defined retired teachers as those who were retired as of December 31, 2001.⁴¹ Representative McBee noted that the initial twenty-six million dollar projected cost of the bill had been lowered to zero.⁴² Representative Mitchell Kaye of the 37th District commended Representative McBee on her efforts to curb the teacher shortage and verified that the cost to the state and the retirement system would be zero.⁴³ Representative Brooks Coleman of the 80th District voiced support for the bill, and reminded the House that this bill allows Georgia to keep its best teachers working with Georgia students.⁴⁴ The House passed the bill by a vote of 108 to 2.⁴⁵

Senate Consideration

Upon introduction, the Senate assigned the bill to its Retirement Committee, which favorably reported the bill on April 1, 2002.⁴⁶ On the floor, the Senate amended the bill to include Regional Educational Support Agencies (RESAs) within the legislation's coverage.⁴⁷ RESAs provide schools with curriculum and staff development support, and also provide services to assist high-risk and failing schools.⁴⁸ As a result of the Senate amendment, retired

37. Georgia House of Representatives Voting Record, HB 210 (Apr. 9, 2002).

38. 2002 Ga. Laws 585, § 4, at 588.

39. State of Georgia Final Composite Status Sheet, HB 210, Apr. 12, 2002.

40. House Audio, *supra* note 10 (remarks by Rep. Louise McBee).

41. HB 210 (HFS), 2002 Ga. Gen. Assem.

42. House Audio, *supra* note 10 (remarks by Rep. Louise McBee).

43. House Audio, *supra* note 10 (remarks by Rep. Mitchell Kaye).

44. House Audio, *supra* note 10 (remarks by Rep. Brooks Coleman); Coleman Interview, *supra* note

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45. Georgia House of Representatives Voting Record, HB 210 (Mar. 25, 2002).

46. State of Georgia Final Composite Status Sheet, HB 210, Apr. 12, 2002.

47. Coleman Interview, *supra* note 5.

48. *Id.*

teachers may return to service at a RESA organization.⁴⁹ Additionally, the Senate amended the bill to allow only low performing schools to hire retired teachers full-time.⁵⁰ Only schools that qualify as Title I low-income schools, schools that have failed to make improvements for two or more years, or schools with low test scores will be permitted to hire retirees.⁵¹ On April 3, 2002, the Senate passed the bill by a vote of 41 to 1.⁵²

From the Senate to Version as Passed

The bill returned to the House on April 9, 2001, and the House agreed to the Senate version.⁵³ The General Assembly forwarded the bill to Governor Barnes, who signed HB 210 into law on May 9, 2002.⁵⁴

The Act

The Act amends Code section 47-3-127 by adding a new subsection that provides for retired teachers to return to the classroom full-time while continuing to receive retirement benefits.⁵⁵ Specifically, the Act permits a school system to employ a retired teacher as an improvement specialist in a qualified school.⁵⁶ The Act defines improvement specialist as “a certified teacher employed by a regional educational service agency as defined in Code section 20-2-270 for the purpose of implementing an improvement plan or strategy at a qualified school.”⁵⁷ The Act defines a qualified school as “a school identified by the State Board of Education prior to the beginning of each school year.”⁵⁸ Qualified schools are those that fail to make adequate progress for two or more years, fail to have fifty percent of their students meeting subject area standards, or

49. *Id.*

50. Compare HB 210 (HFS), 2002 Ga. Gen. Assem., with HB 210 (SFA), 2002 Ga. Gen. Assem.

51. Compare HB 210 (HFS), 2002 Ga. Gen. Assem., with HB 210 (SFA), 2002 Ga. Gen. Assem.; James Salzer, *Senate Oks Hiring Retired Teachers*, ATLANTA J. CONST., Apr. 4, 2002, at C4.

52. Georgia Senate Voting Record, HB 210 (Apr. 3, 2002).

53. Georgia House Voting Record, HB 210 (Apr. 9, 2002).

54. 2002 Ga. Laws 585, § 5, at 588.

55. Compare 1943 Ga. Laws 640, § 6, at 641 (formerly found at O.C.G.A. § 47-3-127(2001)), with O.C.G.A. § 47-3-127.1 (Supp. 2002).

56. *Id.*

57. *Id.*

58. *Id.*

receive a grade of D or F on student performance on achievement standards.⁵⁹

Retired teachers eligible to return to the classroom full-time are those who retired on or before December 31, 2001, with at least 30 years of service or after reaching 60 years of age.⁶⁰ Additionally, the Act provides that the number of retired teachers hired by each school system may not exceed one percent of the total number of full-time classroom teachers in the system.⁶¹ However, each local school system may hire a minimum of ten retired teachers.⁶² Retired teachers rehired under the Act may not be employed for longer than five years.⁶³

The Act provides that the salary paid to retired teachers returning to the classroom shall be “commensurate with the position and the individual’s qualifications and experience.”⁶⁴ Retirees returning under the Act do not retain any tenure, are not considered active members of the retirement system, do not accrue additional benefits, and are not eligible for life or health insurance.⁶⁵ Additionally, the Code section amended by the Act will be automatically repealed on July 1, 2008.⁶⁶

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59. *Id.*

60. *Compare* 1943 Ga. Laws 640, § 6, at 641 (formerly found at O.C.G.A. § 47-3-127(2001)), *with* O.C.G.A. § 47-3-127.1 (Supp. 2002).

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. *Compare* 1943 Ga. Laws 640, § 6, at 641 (formerly found at O.C.G.A. § 47-3-127(2001)), *with* O.C.G.A. § 47-3-127.1 (Supp. 2002).

66. *See* 2002 Ga. Laws 585, § 3(e), at 588.