

House Bill 406 (AS PASSED HOUSE AND SENATE)

By: Representative Leverett of the 123<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 23 of Title 47 of the Official Code of Georgia Annotated, relating to the  
2 Georgia Judicial Retirement System, so as to provide for the payment of monthly retirement  
3 benefits for creditable service as a superior court judge at the age of 65 years; to provide for  
4 calculation of benefits for individuals who first become members after the effective date of  
5 this Act; to provide for calculation of survivors benefits; to provide for conforming changes;  
6 to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 23 of Title 47 of the Official Code of Georgia Annotated, relating to the Georgia  
10 Judicial Retirement System, is amended by revising Code Section 47-23-45, relating to effect  
11 of change in employment, as follows:

12 "47-23-45.

13 Any member of this retirement system shall be entitled to remain as a member by holding  
14 any position or office covered by the fund and shall receive full credit for all service as a  
15 member despite his or her change from one position or office to another covered by the

fund. Upon becoming eligible for retirement, however, retirement benefits shall be determined in accordance with Code Sections 47-23-101 ~~and~~, 47-23-102, and 47-23-102.1."

## SECTION 2.

Said chapter is further amended by revising Code Section 47-23-102, relating to vesting, benefits upon retirement, and compliance with federal income tax laws, as follows:

"47-23-102.

(a) This Code section shall only apply to an individual who first became a member before the effective date of this Act.

(b) The right of a member to receive benefits under this chapter shall vest after the member obtains ten years of creditable service; provided, however, that no member shall receive a retirement benefit prior to attaining the age of 60 years. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's accumulated contributions shall be 100 percent vested and nonforfeitable at all times. Any member retiring on or after July 1, 1996, and any member who was retired on July 1, 1996, with 16 years or more of creditable service shall receive a benefit equal to 66.66 percent, plus 1 percent for each year of creditable service over 16 years, of the member's salary; provided, however, that no member shall receive more than 24 years of creditable service. Any member retiring with less than 16 years of creditable service may retire at a reduced benefit pursuant to Code Section 47-23-103. Normal retirement age under this retirement system shall be the date the member has reached ~~age~~ 60 years of age, provided that he or she has at least ten years of creditable service. For purposes of Section 402(1) of the federal Internal Revenue Code regarding distributions from governmental plans for health and long-term care insurance for public safety officers, normal retirement age shall be the earliest date when the member has satisfied the requirements for a retirement under this or the predecessor retirement system. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's right to his or her retirement allowance is nonforfeitable upon attainment of normal

retirement age. Any member who was retired on July 1, 1996, with more than 16 years of creditable service shall receive in July, 1998, a one-time benefit payment equal to two times the product of 1 percent of the salary paid to such judge at the time of his or her retirement multiplied by the number of years of creditable service in excess of 16 years.

~~(b)~~(c) The board 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 retirement system as a qualified retirement plan for the purposes of federal income tax laws and regulations."

### SECTION 3.

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

"47-23-102.1.

(a) This Code section shall only apply to an individual who first becomes a member on or after the effective date of this Act.

(b) The right of a member to receive benefits under this chapter shall vest after the member obtains ten years of creditable service; provided, however, that no member shall receive a retirement benefit prior to attaining the age of 60 years. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's accumulated contributions shall be 100 percent vested and nonforfeitable at all times. Any member retiring with 16 years or more of creditable service shall receive a benefit equal to 66.66 percent, plus 1 percent for each year of creditable service over 16 years, of the member's salary; provided, however, that no member shall receive more than 24 years of creditable service. Any member retiring with less than 16 years of creditable service may retire at a reduced benefit pursuant to Code Section 47-23-103. Except as provided in subsection (c) of this Code section, normal retirement age under this retirement system shall be the date the member has reached 60 years of age, provided that he or she has at least ten years of creditable service. For

purposes of Section 402(1) of the federal Internal Revenue Code regarding distributions from governmental plans for health and long-term care insurance for public safety officers, normal retirement age shall be the earliest date when the member has satisfied the requirements for a retirement under this retirement system.

(c) On the effective date of a member's retirement, as provided for in subsection (b) of Code Section 47-23-103, such member's monthly retirement benefit shall be calculated as follows:

(1) If a member is over the age of 65 years on his or her effective date of retirement, or has attained the age of 65 years after his or her effective date of retirement, such member shall receive the full amount of the benefit calculated pursuant to subsection (b) of this Code section; or

(2) If a member has not yet attained the age of 65 years on his or her effective date of retirement, the monthly retirement benefit shall be calculated pursuant to subsection (b) of this Code section using only the years of creditable service attributable to such member's service in any covered position except for as a superior court judge.

(d) The board 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 retirement system as a qualified retirement plan for the purposes of federal income tax laws and regulations."

#### **SECTION 4.**

Said chapter is further amended by revising Code Section 47-23-103, relating to retirement based on age and application to retire, as follows:

"47-23-103.

(a) In lieu of retirement at the benefit level provided by Code Section 47-23-102 or 47-23-102.1, a member may retire at any time after attaining the age of 60 years and after

obtaining a minimum of ten years of creditable service. The monthly retirement benefit for such early retirement shall be a percentage of either the benefit under Code Section 47-23-102 if such member first became a member before the effective date of this Act or the benefit under subsection (c) of Code Section 47-23-102.1 if such member first became a member on or after the effective date of this Act, and such percentage shall be the proportion which the number of years of creditable service the member has in the retirement system bears to 16.

(b) The effective date of retirement shall be the first day of the month in which the application is received by the board of trustees, provided that no retirement shall, in any case, be effective earlier than the first day of the month following the final month of the applicant's employment. Applications for retirement shall not be accepted more than 90 days in advance of the effective date of retirement."

#### SECTION 5.

Said chapter is further amended in Code Section 47-23-104, relating to disability, determination of benefits, and determining disability, as follows:

"47-23-104.

(a) After obtaining a minimum of four years of creditable service, any member who becomes totally and permanently disabled to the extent that he or she is unable to perform the duties of his or her office shall be entitled to receive a disability retirement benefit which shall be one-half of the maximum retirement benefits provided by Code Section 47-23-102 or 47-23-102.1 for 16 years of service, unless the member would otherwise qualify for a greater benefit under Code Section 47-23-102 if such member first became a member before the effective date of this Act, Code Section 47-23-102.1 if such member first became a member on or after the effective date of this Act, or Code Section 47-23-103, in which event the Code section providing the highest benefit would apply.

(b) After obtaining a minimum of ten years of actual service, any member who becomes totally and permanently disabled to the extent that he or she is unable to perform the duties of his or her office shall be entitled to receive a disability retirement benefit which shall be two-thirds of the maximum retirement benefits provided by Code Section 47-23-102 or 47-23-102.1.

(c) The disability of any member applying for disability retirement benefits shall be determined by the board in the same manner and under the same procedure as disability of state employees is determined in accordance with the applicable provisions of the Employees' Retirement System of Georgia. Disability retirement benefits shall become effective on the first day of the month following the month the member resigns as a result of the disability."

#### SECTION 6.

Said chapter is further amended by revising Code Section 47-23-105.1, relating to modification of retirement allowance, as follows:

"47-23-105.1.

(a) The provisions of this Code section shall apply only to persons who become members of this retirement system on or after July 1, 2012.

(b) A member may make a one-time election to convert the retirement allowance otherwise payable to him or her into a modified retirement allowance of equivalent actuarial value and designate a natural person to receive a survivors benefit in accordance with one of the options set forth in paragraphs (1), (2), (3), or (4) of this subsection. Such retirement allowance shall be actuarially reduced in accordance to the designated survivor's projected life span. For any member whose benefit amount is calculated pursuant to Code Section 47-23-102.1, such actuarial adjustment shall account for any increase in the benefit amount accruing to such member when he or she attains the age of 65 years. Such actuarial adjustment shall be computed upon the basis of the mortality tables and rates of interest last

adopted by the board of trustees. Such election may be made only after the member has become eligible to retire and before the first payment of his or her retirement allowance normally becomes due. Such election shall be irrevocable except as otherwise provided in this Code section.

(1) Option one, known as the 100 percent joint and survivor option, shall consist of a reduced retirement allowance which is payable during the life of the retired member and which, upon his or her death, shall be continued at the same rate throughout the life of and paid to the designated survivor.

(2) Option two, known as the 66 2/3 percent joint and survivor option, shall consist of a reduced retirement allowance which is payable during the life of the retired member and which, upon his or her death, shall be continued at the rate of two-thirds the reduced retirement allowance throughout the life of and paid to the designated survivor.

(3) Option three, known as the 50 percent joint and survivor option, shall consist of a reduced retirement allowance which is payable during the life of the retired member and which, upon his or her death, shall be continued at the rate of one-half the reduced retirement allowance throughout the life of and paid to the designated survivor.

(4) Option four, known as the pop-up option, shall be the election of options one, two, or three, with the added provision that in the event the designated survivor predeceases the retired member, the retirement allowance payable to the retired member after the death of the designated survivor shall be equal to the maximum retirement allowance which the retired member would have been entitled to receive under this chapter had such election not been made.

(c) In the event a member is not married at the time he or she retires and the retired member does not elect a survivor's option and such member subsequently marries, the retired member may elect to begin receiving an actuarially reduced benefit of equivalent value and establish on behalf of the newly acquired spouse an option under this Code section. Such election shall be made within six months after the marriage.

(d) In the event a retired member makes an election under subsection (b) of this Code section on behalf of a spouse and such spouse predeceases the retired member and the retired member subsequently remarries, the retired member may elect to begin receiving an actuarially reduced benefit of equivalent value and establish on behalf of a new designated survivor pursuant to an option under this Code section.

(e) In the event a retired member makes an election under subsection (b) of this Code section on behalf of a spouse and a final judgment of complete divorce from the spouse is entered, then:

(1) The retired member may elect to continue the optional allowance with the former spouse designated to receive all amounts and benefits upon the death of the retired member; or

(2) The retired member may revoke the appointment of such spouse as a beneficiary; provided, however, that in such event the retirement benefit received by the retired member shall not increase. Such revocation may be made at any time after the entry of the final judgment of divorce. If the retired member elects to revoke the election, the spouse shall be treated in the same manner as if he or she had predeceased the retired member under subsection (d) of this Code section.

(f) If an active vested member of this retirement system dies and is survived by a legal spouse, such spouse shall receive a benefit as if the member has retired on the date of his or her death, had attained the age of 65, and had elected option three."

## SECTION 7.

Said chapter is further amended by revising Code Section 47-23-106, relating to county supplement of salaries, as follows:

"47-23-106.

(a) Whenever any county within a judicial circuit supplements the state salary paid to active superior court judges or the district attorney of said circuit, the governing authority



of such county shall be authorized, but not required, to supplement the benefit being paid pursuant to this chapter to any retired superior court judge or district attorney of said circuit who is receiving benefits pursuant to this chapter or to supplement the benefit being paid pursuant to this chapter to any beneficiary of any deceased superior court judge or district attorney.

(b) Whenever any county which has a state court supplements the salary of the judges or solicitors-general of such court, the governing authority of such county shall be authorized, but not required, to supplement the benefit being paid pursuant to this chapter to any retired state court judge of such court who is receiving benefits pursuant to this chapter or supplement the benefit being paid pursuant to this chapter to any beneficiary of any deceased state court judge.

(c) Notwithstanding the provisions of subsection (a) or (b) of this Code section, for any single county judicial circuit where the county site is located in an unincorporated area of the county and the county governing authority has constructed one or more permanent satellite courthouses within the county, said county shall supplement the benefit amount being paid pursuant to this chapter to any district attorney who retired from such circuit. The amount of the supplement shall be determined by multiplying the benefit percentage he or she earned pursuant to Code Section 47-23-102 if such member first became a member before the effective date of this Act or Code Section 47-23-102.1 if such member first became a member on or after the effective date of this Act at retirement together with the aggregate county salary supplement being paid to the active district attorney on the date that he or she begins receiving a retirement benefit or the supplement paid to the retiring district attorney upon his or her last day of service as district attorney, whichever is greater. The supplement shall not be payable to a spouse or survivor pursuant to the provisions of Code Section 47-23-105."

223

**SECTION 8.**

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