

Senate Bill 142

By: Senator Millar of the 40th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 23 of Title 47 of the Official Code of Georgia Annotated,
2 relating to salary, retirement, death, and disability benefits under the Georgia Judicial
3 Retirement System, so as to provide that the board of trustees shall have the authority to
4 determine the time and circumstances of paying benefits to the extent necessary to preserve
5 the retirement system's status as a qualified plan under federal law; to clarify a provision
6 relating to a prohibition against a person receiving a pension from accepting public
7 employment; to require notice to the board of trustees of such employment; to provide for
8 penalties; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 6 of Chapter 23 of Title 47 of the Official Code of Georgia Annotated, relating to
12 salary, retirement, death, and disability benefits under the Georgia Judicial Retirement
13 System, is amended in Code Section 47-23-102, relating to vesting and benefits upon
14 retirement, by designating the existing portion of such Code section as subsection (a) and by
15 adding a new subsection to read as follows:

16 "(b) The board is authorized to provide by rule or regulation for the payment of benefits
17 to members or beneficiaries of the retirement system at a time and under circumstances not
18 provided for in this chapter to the extent that such payment is required to maintain the
19 retirement system as a qualified retirement plan for the purposes of federal income tax laws
20 and regulations."

21 **SECTION 2.**

22 Said article is further amended by revising Code Section 47-23-109, relating to cessation of
23 retirement allowance for resuming state service, as follows:

24 "47-23-109.

25 (a) Except as provided in subsection (b) of this Code section, if any retired member ~~who~~
 26 ~~has not yet reached normal retirement age~~ returns to the service of the state in any position,
 27 including, without limitation, service directly or indirectly as or for an independent
 28 contractor, except as a member of the General Assembly, his or her retirement allowance
 29 shall cease. Upon cessation of such service, the retired member, after proper notification
 30 to the board, shall receive the same retirement allowance which he or she was receiving
 31 prior to returning to state service, calculated with any increases granted during the period
 32 of compensation.

33 (b) The retirement allowance of a retired member ~~who has reached normal retirement age~~
 34 ~~and~~ who returns to the service of the state in any position, including, without limitation,
 35 service directly or indirectly as or for an independent contractor, other than as a member
 36 of the General Assembly shall not cease, provided that such member performs no more
 37 than 1,040 hours of such service in any calendar year.

38 (c) Any state entity that employs a retired plan member, other than for service in the
 39 General Assembly as provided in subsection (a) of this Code section, shall within 30 days
 40 of the employee's accepting employment notify the board in writing stating the name of the
 41 plan member and the number of hours the employee is expected to work annually and shall
 42 provide such other information as the board may request. If the retired plan member
 43 performs more than 1,040 hours of work in any calendar year, the employer shall so notify
 44 the board as soon as such information is available. Any employer that fails to notify the
 45 board as required by this subsection shall reimburse the retirement system for any benefits
 46 wrongfully paid. It shall be the duty of the retired plan member seeking employment by
 47 the employer to notify the employer of his or her retirement status prior to accepting such
 48 position. If a retired plan member fails to so notify the employer and the employer
 49 becomes liable to the retirement system, the plan member shall hold the employer harmless
 50 for all such liability."

51 **SECTION 3.**

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