GEORGIA CODE PROVISIONS

PUBLIC RETIREMENT SYSTEMS

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TITLE 47. RETIREMENT AND PENSIONS

TITLE 47. RETIREMENT AND PENSIONS
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O.C.G.A. § 47-1-1 (2011)

§ 47-1-1. Intent of codification and enactment of this title

The enactment of Title 47 of this Code is intended only as a recodification of the existing laws of this state relating to retirement and pensions. The codification and enactment of this title are not intended to nor shall they be construed to increase, diminish, grant, destroy, impair, alter, or otherwise affect any pension, retirement benefit or allowance, survivors benefit, membership or right to membership, creditable service or right thereto, prior service or right thereto, membership service or right thereto, or any option, election, or right of any kind which is in existence on November 1, 1982.

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O.C.G.A. § 47-1-3 (2011)

§ 47-1-3. Power of a local retirement system to hire an actuary; payment of the administrative costs of a local retirement system; periodic actuarial investigations; annual financial report

(a) As used in this Code section, the term "local retirement system" means any retirement, pension, or emeritus system covering an employee or employees of a county, municipality, local board of education, or other political subdivision, or any groups or classifications of such employees which is funded at least in part by such political subdivisions.

(b) The board of trustees or other governing authority of each local retirement system is authorized and directed to designate and retain the services of a qualified actuary to provide technical advice and assistance to the board of trustees or governing authority in the management of the retirement system and in the preparation of surveys or reports required under this Code section.

(c) Any political subdivision maintaining a local retirement system for an employee or employees or for classifications of employees is authorized to expend any public funds available to it to pay any portion of the administrative costs of the retirement system, if the funds available to the retirement system are not adequate to pay the administrative costs, notwithstanding any contrary provisions of any laws relative to such local retirement system.

(d) Once every two years, the board of trustees or other governing authority of each local retirement system shall have the system's actuary make an actuarial investigation. Such actuarial investigation shall include the results of any actuarial investigation into the then current assumptions as to rates of interest, mortality, disability, withdrawal, and retirement. The actuarial investigation shall also include consideration of the experience of the retirement system under its assumptions and a comparison of results with the previous actuarial investigations and may also include such other studies as may be necessary or desirable for the completeness and accuracy of the actuarial investigation. The actuarial investigation shall also include a valuation of the contingent assets and liabilities of the retirement system and a determination of the payments necessary to amortize over a stated period any unfunded accrued liability disclosed. As an exhibit to the actuarial investigation, the local retirement system board of trustees or other governing authority thereof shall attach a copy of all the provisions of the plan for the local retirement system, including the requirements and conditions for qualifying to participate, the nature of benefits under the plan, and the manner in which the local retirement system is funded. Beginning on October 1, 1996, and every two years thereafter on such date, the board of trustees or other governing authority of each such local retirement system shall have on file with the state auditor an actuarial investigation meeting the requirements of this subsection. This subsection shall not apply to a retirement or pension program which is established pursuant to an insurance contract between an insurer and a county, municipality, local board of education, or other political subdivision or between an insurer and any commission, board, or other agency of any such political subdivision. As used in the preceding sentence, the word "insurance" and the word "insurer" shall have the meanings set forth, respectively, in Code Section 33-1-2. Municipalities providing a retirement program for their employees pursuant to a contract with the Board of Trustees of the Georgia Municipal Employees Benefit System shall not be required to submit actuarial investigations under this subsection or financial reports under this Code section. In lieu of such actuarial investigations and reports, the Board of Trustees of the Georgia Municipal Employees Benefit System shall prepare a comprehensive report once every two years based on the information required under Code Sections 47-5-26 and 47-5-30. Such comprehensive reports shall be filed with the state auditor at the same time as actuarial investigations are filed as provided in this subsection. Any county providing a retirement program for its employees pursuant to a contract with, or a program offered by, the Association County Commissioners of Georgia shall also be exempt from the requirements of this subsection or financial reports under this Code section, if the Association County Commissioners of Georgia files with the state auditor, at the same time actuarial investigations are filed under this subsection, a comprehensive report substantially equivalent to the comprehensive report filed by the Board of Trustees of the

Georgia Municipal Employees Benefit System as provided in this subsection. Nothing in this subsection shall be construed as to exempt either the Georgia Municipal Employees Benefit System or the Association County Commissioners of Georgia from the provisions of Code Section 47-20-4.

(e) The board of trustees or other governing authority of each local retirement system shall file a financial report on such local retirement system with the state auditor at the same time each actuarial investigation is filed with the state auditor as provided by subsection (d) of this Code section.

(f) The financial report shall include, for each of the two fiscal years covered by the report, the following information:

(1) The receipts of the local retirement system, including member contributions, employer contributions, any other contributions, investment income, gains from the sale of the system's assets, and any other receipts from whatever source derived;

(2) The disbursements of the local retirement system, including benefit payments to retirees or beneficiaries, refunds to members, losses from the sale of the system's assets, and administrative expenses of the system; and

(3) The certificate of the chairperson of the board of trustees stating that the investment practices of the fund have been in compliance with the provisions of Article 7 of Chapter 20 of this title at all times during the reporting period or, if the practices have at any time been out of compliance with such provisions, providing a description of the noncompliance, the reason for the noncompliance, and the corrective action taken.

(g) The financial report shall also include statistics on the membership and beneficiaries of the local retirement system. There shall be attached to the financial report an exhibit showing all amendments to or changes in the local retirement system which have been made since the filing of the previous actuarial investigation under subsection (d) of this Code section.

(h) The first financial report shall be filed on October 1, 1996, and subsequent reports shall be filed every two years thereafter on October 1.

(i) The financial reports, the actuarial investigations, and all exhibits thereto and modifications thereof shall be a matter of public record open to inspection by the public.

(j) The financial reports required by this Code section shall apply to retirement or pension programs established pursuant to an insurance contract, as described by subsection (d) of this Code section.

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O.C.G.A. § 47-1-4 (2011)

§ 47-1-4. Report of the state auditor on the condition of local retirement systems

Based on the most recent actuarial investigations on file pursuant to subsection (d) of Code Section 47-1-3 and financial reports submitted under subsections (e) through (j) of Code Section 47-1-3, the state auditor, once every two years beginning on January 1, 1997, shall submit a report on the condition of local retirement systems to the Governor and each member of the General Assembly. The report shall deal specifically with any local retirement system which the state auditor has reason to believe is not in actuarially sound condition or has not been in compliance with the provisions of Code Section 47-1-12. A copy of the state auditor's report shall also be sent to the Attorney General and to the applicable governing authority of the political subdivision and the applicable board of trustees or other governing authority of the local retirement system which the state auditor finds is not in actuarially sound condition or has not been in compliance with the provisions of Article 7 of Chapter 20 of this title.

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O.C.G.A. § 47-1-5 (2011)

§ 47-1-5. Duty of governing authorities to make and file actuarial investigations and to file financial reports; withholding of state funds for failure to meet this duty

It shall be the duty of the governing authority of each county, municipality, or other political subdivision whose employees are covered under a local retirement system and the duty of a local board of education whose employees are covered under a local retirement system to cause the actuarial investigations required by subsection (d) of Code Section 47-1-3 to be made and to cause such actuarial investigations to be filed with the state auditor as required by that subsection. It shall also be their duty to cause financial reports to be submitted to the state auditor as required by subsections (e) through (j) of Code Section 47-1-3. If a required actuarial investigation and financial report are not submitted, then within 30 days after the date on which such investigation and report were due in the office of the state auditor, the state auditor shall notify, in writing, the governing authority of the county, municipality, or other political subdivision whose employees are covered under the applicable local retirement system. If the actuarial investigation and financial report are not received by the state auditor within 60 days after the date such notice is sent to the governing authority, the state auditor shall notify the state treasurer; and it shall be the duty of the state treasurer to withhold any state funds payable to the applicable political subdivision or local board of education until the actuarial investigation and financial report are submitted to the state auditor. The state auditor shall advise the state treasurer within five days after receiving the actuarial investigation and financial report to release any state funds payable to the applicable political subdivision.

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O.C.G.A. § 47-20-4 (2011)

§ 47-20-4. Publicly funded retirement system subject to chapter; not applicable to defined contribution retirement system

Any other provision of law to the contrary notwithstanding, any public retirement system or pension fund supported wholly or partially by public funds shall be subject to the provisions of this chapter. This Code section applies, without limitation, to the Georgia Municipal Employees Benefit System created by Chapter 5 of this title and to any association of like political subdivisions which contracts with its members for the pooling of assets. This Code section shall not apply to any defined contribution retirement system.

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ARTICLE 2. MINIMUM FUNDING STANDARDS

O.C.G.A. § 47-20-10 (2011)

§ 47-20-10. Minimum annual employer contribution

(a) In order to assure the actuarial soundness of each retirement system, the minimum annual employer contribution for each retirement system, unless excepted by Code Section 47-20-13, shall be the sum of the amounts determined under paragraphs (1), (2), and (3) of this subsection minus the amount determined under paragraph (4) of this subsection; provided, however, that under no circumstances shall the minimum annual employer contribution be less than zero or result in a contribution credit for a subsequent year, as follows:

(1) The normal cost of the retirement system for the year; plus

(2) The amounts necessary to amortize:

(A) The unfunded actuarial accrued liability over a period of 40 years in the case of a retirement system in existence on January 1, 1983, based on the first actuarial valuation of the retirement system which is made on or after January 1, 1984; or

(B) The unfunded actuarial accrued liability over a period of 30 years in the case of a retirement system which is created or established after January 1, 1983, based on the first actuarial valuation of the retirement system; plus

(C) The increase, if any, in unfunded actuarial accrued liability over a period of 20 years for any such increase which occurs after January 1, 1984, during any year as a result of changes made in the provisions of the retirement system affecting active employees; plus

(D) The increase, if any, in unfunded actuarial accrued liability over a period of 15 years for any such increase which occurs from experience under the actuarial assumptions applicable to the retirement system; plus

(E) The increase, if any, in unfunded actuarial accrued liability over a period of 30 years for any such increase resulting from changes in actuarial assumptions applicable to the retirement system; plus

(3) If not otherwise included in the calculations under paragraph (1) or (2) or paragraphs (1) and (2) of this subsection:

(A) The amount necessary to amortize over a period of ten years in equal annual installments the increase, if any, in unfunded actuarial accrued liability resulting from benefit increases granted during the year to beneficiaries under the retirement system; or

(B) The amount necessary to pay the amount of increase in benefits granted during the year to beneficiaries under the retirement system on a current disbursement or pay-as-you-go basis; minus

(4) The amount:

(A) Necessary to amortize the decrease, if any, in unfunded actuarial accrued liability over a period of 20 years for any such decrease which occurs after January 1, 1984, during any year as a result of changes made in the provisions of the retirement system; plus

(B) Necessary to amortize the decrease in unfunded actuarial accrued liability, if any, over a period of 15 years for any such decrease which occurs from experience under the actuarial assumptions applicable to the retirement system; plus

(C) Necessary to amortize the decrease in unfunded actuarial accrued liability, if any, over a period of 30 years for any such decrease resulting from changes in the actuarial assumptions applicable to the retirement system; plus

(D) In excess of the minimum annual employer contribution required by this Code section which accumulates after January 1, 1984; plus

(E) Employee contributions for the year.

(b) In the case of a retirement system which uses a formula related to the compensation of the members of the retirement system as a basis for the calculation of benefits under the retirement system, the amortization amounts required by subsection (a) of this Code section, except for the amount determined under paragraph (3) of subsection (a) of this Code section, may be determined as a level percentage of future compensation. If such level percentage amortization is used, the actuarial assumption for future annual payroll growth shall not exceed the actuarial assumed valuation interest rate of the retirement system less 2 1/2 percent. The minimum standards provided by subsection (a) of this Code section are deemed to have been met if such level percentage amortization is used and the employer contribution is equal to or greater than the annual required contribution as is determined in accordance with the provisions of Governmental Accounting Standards Board Statements No. 25 and No. 27.

(c) In the case of a retirement system which does not use a formula related to the compensation of the members of such retirement system as a basis for the calculation of benefits under such retirement system, the minimum funding standards provided for in subsection (a) of this Code section shall be deemed to have been met if the employer contribution is equal to or greater than the annual contribution as determined in accordance with the provisions of Governmental Accounting Standards Board Statements No. 25 and No. 27.

(d)(1) The minimum funding standards provided for in subsection (a) of this Code section shall be deemed to have been met if as of the latest actuarial valuation a retirement system has a negative unfunded actuarial accrued liability and the employer contribution is equal to or greater than the annual required contribution as determined in accordance with the provisions of Governmental Accounting Standards Board Statements No. 25 and No. 27; provided, however, that in no case shall the negative unfunded actuarial accrued liability be amortized over a period of less than ten years. If a retirement system has such a negative unfunded actuarial accrued liability, the amounts necessary to amortize under paragraphs (2), (3), and (4) of subsection (a) of this Code section established prior to the current actuarial valuation date will be considered to be fully amortized under the minimum funding standards provided by subsection (a) of this Code section.

(2) In any actuarial valuation subsequent to the valuation in which a retirement system is found to have complied with the provisions of paragraph (1) of this subsection, if the retirement system still has a negative unfunded actuarial accrued liability, the only amortization required under such minimum funding standards will be an amortization of the negative unfunded actuarial accrued liability over a period of not less than ten years of the actuarial accrued liability. For any such subsequent actuarial valuations, whenever the retirement system again has an unfunded actuarial accrued liability, the minimum standards provided by subsection (a) of this Code section shall apply with new amounts necessary to amortize the newly created unfunded actuarial accrued liability.

(e) In determining the minimum annual employer contribution under subsection (a) of this Code section:

(1) All benefits which it is reasonable to anticipate will be paid

from the retirement system because of the current active members and payments to beneficiaries shall be taken into account; and

(2) All costs, liabilities, and other factors under the retirement system shall be determined by an actuary on the basis of an actuarial cost method and actuarial assumptions which, in the aggregate, are reasonable, considering the experience of the retirement system and reasonable expectations, and which, in combination, offer the actuary's best estimate of anticipated experience under the retirement system.

(f) Upon completion of the first actuarial investigation of a retirement system after January 1, 1984, and for each subsequent actuarial investigation, the minimum annual employer contribution required by this Code section shall be increased by an amount equivalent to the interest earned on such minimum annual employer contribution, based on the actuarial assumed valuation interest rate applicable to the retirement system, from the date of such actuarial investigation until the date the minimum annual employer contribution is made to the retirement system. This subsection shall not apply to a retirement system to which annual employer contributions are being made in excess of the minimum annual employer contribution required by this Code section.

(g) In no event will employee contributions of active members of a retirement system be used to pay benefits to beneficiaries under the retirement system.

(h) The minimum funding requirements of this Code section shall not apply to prefunding, in whole or in part, of anticipated future costs of providing other post-employment benefits as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45 for retired employees of a political subdivision including those presently retired and those anticipated to retire in the future, as provided in Code Section 47-20-10.1. Such prefunding may be maintained as part of the same investment pool as the fund receiving employer and employee contributions to pay the cost of providing retirement benefits under any retirement system maintained by the political subdivision for its employees so long as such funds are separately accounted for and separate records are maintained with respect to each fund. Funds maintained by a political subdivision for the purpose of prefunding other post-employment benefits for retired employees may be invested and reinvested in accordance with the provisions of Code Section 47-1-12, or Article 7 of Chapter 20 of this title, as applicable, and, for the purposes of that Code section or article and the home rule provisions of the laws and the Constitution of the State of Georgia only, such funds shall be treated in the same manner as retirement funds.

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O.C.G.A. § 47-20-10.1 (2011)

§ 47-20-10.1. Other post-employment benefits

(a) Political subdivisions are authorized to establish plans to provide for payment of other post-employment benefits, as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45 for their eligible present and future retirees and other related expenses as described herein. Such benefits may be prefunded by irrevocable trusts or other authorized funding mechanisms subject to the financial reporting, disclosure, and actuarial requirements of Governmental Accounting Standards Board Statements Number 43 and Number 45 or any subsequent Governmental Accounting Standards Board updates or statements that may be applicable. Except as otherwise provided under subsection (c) of this Code section, the plan and assets of any trust or fund so established may be under the governance and investment authority of a retirement system maintained by the political subdivision or other board of trustees established for such purpose; provided, however, that the assets of any other post-retirement benefit plan, trust, or fund shall be separately accounted for and separate records shall be maintained. The prefunded amounts shall be available without fiscal year limitations for other post-employment benefits, as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45, and administration costs. All employer contributions, plan participant contributions, appropriations, earnings, and reserves for the payment of obligations under the plan shall be credited to such trust or fund. The amounts remaining in such trust or fund, if any, after other post-employment benefit expenses and administration costs have been paid in any year shall be retained in such trust or fund for future payments until the satisfaction of all plan liabilities under the trust or fund for other post-employment benefits. All prefunded amounts shall be used solely for the payment of plan benefits and administrative costs and for no other purpose.

(b) Prefunded assets of whatever kind or nature of any other post-employment benefit plan or trust, and the earnings or proceeds derived from such investments or assets, are limited to paying other post-employment benefits and administrative costs and are declared to be public property and exempt from taxation by this state, or by any political subdivision of this state, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever.

(c) Employers who are eligible to participate in the Georgia Municipal Employees Benefit System created by Chapter 5 of this title may establish or participate in another post-employment benefit plan, trust, or fund under the governance and investment authority of the board of trustees of the Georgia Municipal Employees Benefit System, notwithstanding any provision of this Code section or Code Section 47-20-10 to the contrary. The assets of any such plan, trust, or fund under the governance and investment authority of the board of trustees of the Georgia Municipal Employees Benefit System may be maintained as part of the same investment pool as the system retirement fund and invested pursuant to the applicable provisions of Article 7 of Chapter 20 of Title 47, notwithstanding any provision of subsection (c) of Code Section 47-5-28 to the contrary, so long as the assets of the plan, trust, or fund and the Georgia Municipal Employees Benefit System retirement fund are separately accounted for and separate records are maintained for the plan, trust, or fund and the Georgia Municipal Employees Benefit System retirement fund.

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O.C.G.A. § 47-20-13 (2011)

§ 47-20-13. Financially sound systems exempt from minimum funding standards

The minimum funding standards specified by Code Section 47-20-10 shall not apply to a retirement system which holds actuarial assets in excess of 150 percent of the actuarial present value of the accumulated retirement system benefits.

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O.C.G.A. § 47-20-20 (2011)

§ 47-20-20. Freezing of benefits and other provisions; amount of annual employer contribution

(a) In the case of a retirement system of a political subdivision, unless excepted by Code Section 47-20-13, neither the local governing authority by ordinance or resolution or other action nor the retirement system administrator shall take any action on or after January 1, 1984, to grant a benefit increase under any retirement system of the political subdivision until annual employer contributions to each retirement system of the political subdivision are in conformity with the minimum funding standards specified by Code Section 47-20-10. The local governing authority of a political subdivision shall not take any action after January 1, 1984, to create or establish any new retirement system until all existing retirement systems of that political subdivision are being funded in conformity with the minimum funding standards specified by Code Section 47-20-10. This limitation shall not prohibit a local governing authority from creating or establishing a new retirement system as a successor to the existing retirement system or systems of the political subdivision if the resulting new system and the remaining obligations under the previously existing system or systems are funded in accordance with the minimum funding standards specified by Code Section 47-20-10. The membership of such a successor retirement system need not be confined to the membership of the previously existing retirement system or systems.

(b) Unless excepted by Code Section 47-20-13, after January 1, 1984, the annual employer contribution to each retirement system of a political subdivision shall be in an amount equal to or greater than the minimum annual employer contribution required by Code Section 47-20-10.

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O.C.G.A. § 47-20-21 (2011)

§ 47-20-21. Triennial actuarial investigations; penalties for violations shown; list of local systems not in conformance reported triennially

(a) The retirement system administrator of each retirement system of a political subdivision shall comply fully with the requirements of Code Section 47-1-3 requiring the employment of an actuary and the completion of actuarial investigations once every three years. In addition to the other requirements specified by Code Section 47-1-3 for such actuarial investigations, each such investigation shall express the actuary's opinion, which shall be supported by such analysis as the actuary determines necessary, of the status of the retirement system with regard to the minimum funding standards specified in Code Section 47-20-10. Each such actuarial investigation shall also include an analysis of each change in or amendment to the retirement system since the previous investigation and shall identify any change or amendment which granted a benefit increase.

(b) If an actuarial investigation or a financial report which is submitted to the state auditor under Code Section 47-1-3 shows that an amendment or change was made in a retirement system of a political subdivision granting a benefit increase in violation of subsection (a) of Code Section 47-20-20 or shows that a retirement system of a political subdivision is not in conformity with the requirements of subsection (b) of Code Section 47-20-20, it shall be the duty of the state auditor to notify the state treasurer; and it shall be the duty of the state treasurer to withhold any state funds payable to the applicable political subdivision until the actuary of the applicable retirement system certifies to the state auditor and to the state treasurer that employer contributions to each retirement system of the political subdivision are in conformity with the minimum funding standards specified in Code Section 47-20-10.

(c) The report on the condition of local retirement systems submitted to the Governor and to members of the General Assembly pursuant to Code Section 47-1-4 shall include a separate list of each retirement system of each political subdivision which is not in conformity with the minimum funding standards specified by Code Section 47-20-10 and a separate attachment giving a full explanation of any action taken pursuant to subsection (b) of this Code section.