

House Bill 379 (AS PASSED HOUSE AND SENATE)

By: Representatives Bridges of the 10th and Cummings of the 16th

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to the
 2 Employees' Retirement System of Georgia, so as to provide that a member of such retirement
 3 system applying for a disability retirement shall notify the employing agency; to provide that
 4 the employing agency shall determine if an alternative position is available for such
 5 employee; to provide conditions for such alternative employment; to provide for a written
 6 offer and acceptance or appeal; to provide procedures for an appeal; to provide that such
 7 employee who refuses to accept an offer of alternative employment shall not be eligible for
 8 a disability retirement; to provide for related matters; to provide conditions for an effective
 9 date and automatic repeal; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to the Employees'
 13 Retirement System of Georgia, is amended by striking in its entirety subsection (b) of Code
 14 Section 47-2-123, relating to allowance payable upon death, disability, or involuntary
 15 separation from employment under the Employees' Retirement System of Georgia,
 16 restrictions on separating from employment, restrictions on separating from state service, and
 17 employee entitled to involuntary separation benefits, and inserting in lieu thereof the
 18 following:

19 "(b)(1) Subject to the provisions of paragraphs (2) through (5) of this subsection, any
 20 Any member in service who has at least 15 years of creditable service may be retired on
 21 a disability allowance by the board of trustees, upon written application to the board of
 22 trustees by the member or his or her employer and upon certification by the medical board
 23 that he or she is medically or physically incapable of further performance of his or her
 24 duties in the position he or she held at the time his or her disability originated, that
 25 incapacity is likely to be permanent, and that he or she should be retired; provided,

1 however, that the medical board shall not consider any evidence of such disability which
 2 is not submitted within 12 months after the date the member submits his or her first
 3 application for a disability retirement. The board of trustees may retire such member not
 4 less than 30 days nor more than 90 days after execution and filing of the written
 5 application.

6 (2) A member making application for a disability retirement pursuant to paragraph (1)
 7 of this subsection shall at the same time submit a copy of such application together with
 8 any supporting documentation accompanying such application to his or her employing
 9 agency. The member shall thereafter provide the employing agency with any additional
 10 information or documentation which he or she submits to the board of trustees in
 11 conjunction with such application.

12 (3) After receipt of the notice provided for in paragraph (2) of this subsection, the head
 13 of the member's agency or his or her designee shall conduct an interview with the
 14 member applying for disability retirement; provided, however, that any designee of the
 15 head of an agency shall be an official at such agency who is above the level of the
 16 applicant's immediate supervisor and who has the authority to make job assignment
 17 decisions. The interview shall be held within ten business days after receipt of such
 18 notice. Based on the interview and information received by the agency pursuant to
 19 paragraph (2) of this subsection, the agency head or his or her designee shall determine
 20 if an alternative position is available for the member which meets the following
 21 requirements:

22 (A) The physical requirements for such position are compatible with the member's
 23 physical limitations;

24 (B) The annual compensation and possibility for future advancement for such position
 25 shall be the same as or greater than that of the current position of the member;

26 (C) The duties for such position shall be reasonably compatible with the experience
 27 and educational qualifications of the member;

28 (D) The position shall be one which includes the holder thereof as a member of the
 29 retirement system provided for by this chapter; and

30 (E) The position must be available for acceptance by the member and an offer of the
 31 position to the official or member must be made, in writing, by not later than 45 days
 32 after the member submitted his or her application for a disability retirement.

33 An agency making an offer of alternative employment as provided in this paragraph shall
 34 so notify the board of trustees within 45 days after the member submitted his or her
 35 application for a disability retirement. After receipt of such notice, the board of trustees

1 shall not approve a disability retirement until the procedures of paragraph (4) of this
 2 subsection are resolved.

3 (4) Any member applying for a disability retirement who is offered a position of
 4 employment in conformity with the requirements of paragraph (3) of this subsection shall
 5 accept the offer or dispute his or her ability to perform the tasks required by the position
 6 offered by submitting a written appeal to the agency and to the board of trustees within
 7 30 days after receiving the offer. In the event of an appeal, the agency shall promptly
 8 submit to the medical board a detailed description of the requirements of the position
 9 offered and the medical board shall determine, based upon all information available to
 10 it, whether the member is reasonably capable of performing such tasks. The decision of
 11 the medical board shall be final. If the medical board determines that the member is
 12 unable to perform the tasks required either by the position held at the time of the
 13 application for a disability retirement or the position offered, the member shall be placed
 14 on disability retirement immediately.

15 (5) A member who refuses to accept a position offered or file an appeal in a timely
 16 manner or who refuses to accept a position which the medical board has determined on
 17 appeal that he or she is capable of performing shall not be eligible to receive a disability
 18 retirement under this subsection."

19 **SECTION 2.**

20 This Act shall become effective on July 1, 2006, only if it is determined to have been
 21 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
 22 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
 23 become effective and shall be automatically repealed in its entirety on July 1, 2006, as
 24 required by subsection (a) of Code Section 47-20-50.

25 **SECTION 3.**

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