

2009 Legislative Updates

Several pieces of legislation were passed and signed into law in the 2009 legislative session which affect the various pension funds administered by the Employees' Retirement System of Georgia (ERS). Below is a summary of the bills.

SB 177/Act 94 — Group Term Life Insurance (GTLI) Eligibility for Judges and Legislators:

In 2008, the GTLI membership ended for all new hires in ERS after December 31, 2008; however, new membership continued for Appellate Judges, JRS and LRS. This bill eliminates any new Appellate Judge, JRS, or LRS entrants into the GTLI benefit effective July 1, 2009.

HB 202/Act 275 — Pension Compliance Bill:

This bill updates the Georgia Statute to comply with all federal retirement plan laws, effective May 11, 2009. ERS currently complies with the federal requirements, but it was necessary to update Georgia law to mirror federal code language. *(For more information, see page 2)*

HB 210/Act 78 — Judicial Retirement System Correction:

In previous legislative changes, specific language was eliminated from the code in error by counsel. This bill is simply a housekeeping bill to restore the language to the code, effective July 1, 2009. ERS has continued to administer according to the original language.

HB 371/Act 44 — Equity Investments:

This bill amends the retirement system's investment authority by allowing the system to increase its equity investments, effective April 21, 2009. Increases in equity investments can occur in increments over the next three fiscal years: 65% effective July 1, 2009, 70% effective July 1, 2010, and 75% effective July 1, 2011. In addition, the bill removes the 15% restriction on investments in corporations outside the United States or Canada.

HB 452/Act 82 — No Pension Cost-of-Living Adjustments (COLA) for New Hires:

Currently, all retirees under the ERS systems are eligible for a COLA each year after retirement. The Boards of each system may grant a COLA each year. Any new hire after July 1, 2009 will be ineligible for a COLA after retirement.

HB 476/Act 83 — Pension Spiking:

A critical bill for the 2009 legislative session was to eliminate abuse within the pension system. Prior law allowed agencies to increase a member's salary immediately prior to retirement in order to increase their pension benefit from the system. For example, this salary spike increased the liability to the pension system by \$750,000 for one individual. To protect the system for all current retirees and future retirees, this bill provides two solutions:

- For any new hire on or after July 1, 2009, the pension system will not recognize any salary increase greater than 5% in the last year of employment.
- The bill authorizes ERS to invoice employers for the actuarial cost of augmented pension benefits due to salary increases greater than 5% in the final 12 months of service, beginning July 1, 2009. Employers are also responsible for the associated actuary fees for the calculation.

HB 477/Act 84 — USERRA Compliance:

Georgia law will be brought into compliance with USERRA by removing the current requirement for returning veterans who wish to establish a period of qualified military service to notify the retirement system within six months of resuming employment, effective April 30, 2009. USERRA does not allow for the six month restriction.

Georgia Defined Contribution Plan — No Interest Credited for FY 2010

As a result of current market conditions, the Georgia Defined Contribution Plan (GDCP) will not be crediting interest to members' accounts during FY 2010. The GDCP Board of Trustees passed this motion at the June 2009 Board Meeting. The funding status of the plan will continue to be monitored to determine when interest may again be credited.

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HB 202 Pension Compliance

House Bill 202/Act 75, the IRS compliance bill for ERS, PSERS, LRS, GDCP and JRS was passed into law during the 2009 Session. The new law authorizes the boards of public retirement systems operating under O.C.G.A. Title 47 to adopt necessary rules to maintain the qualified status of their pension plans in compliance with Internal Revenue Codes 401(a) and 414(d). Here is a summary of the significant changes affecting employers, members and retirees:

ERS PLAN

- 1. Definition of employee expanded** [O.C.G.A. 47-2-1 (16.6)] so as to exclude independent contract employees and leased employees from ERS membership. Employees classified as independent contractors or leased employees are not eligible for membership in ERS.
- 2. Normal Retirement Age defined** [O.C.G.A. 47-2-110 (a)(2)] as age 60 with 10 years of service, the age of an employee on the date he or she attains 30 years of service, or for those members employed in certain law enforcement positions, age 55 with 10 years of service.
- 3. Requirement for rehiring Retirees** — A bona fide termination must exist for any retiree less than Normal Retirement Age wishing to return to active employment, as indicated below:
 - New retirees must remain out of service for at least two months, or the retirement application becomes null and void.
 - As part of the retirement process, employers must now, in addition to certifying the termination date, also certify that no agreement to allow the employee to return to service exists.
 - After a two-month break, a rehired retiree can work up to 1,040 hours per calendar year without interruption of benefits.

Rehired retirees who retired on or after Normal Retirement Age are only subject to the 1,040 hour limitation, *not* the two-month break in service requirement.

- 4. Returning to active employment now includes:**
 - service as or for an independent contractor
 - employment with the Board of Regents
 - employment with a local school system, if the rehired employee retired from that school system under ERS

A new form (Rehired Retiree Reporting Form) to notify ERS of any newly rehired retirees is available in the Employers section of the ERS website.

- Form must be submitted to ERS within 30 days of employment.

- If rehired retirees exceed the 1,040 hour limitation, employers must reimburse ERS for any benefits wrongfully paid in the event the employer has failed to notify ERS of the rehire.

PSERS PLAN

- 1. Rehired retirees less than age 65** will now have benefits suspended and must return to active membership in PSERS and accrue additional service credits. Upon subsequent termination of service, the member will begin receiving benefits based on total accrued service. There are no restrictions on rehired retirees age 65 or older.

LRS Plan

- 1. Rehired retirees less than age 62** will have benefits suspended if they return to state service other than as a legislator. Employment service includes services as or for an independent contractor. Upon subsequent termination of service, the member will resume receipt of pension benefits at the rates in force prior to return to service.
- 2. Rehired retirees less than age 62 returning to the legislature** will have benefits suspended and resume active membership in the Plan. Upon subsequent termination of service, the member will receive an increased pension based on the total accumulated service.
- 3. Rehired retirees age 62 or older** will have benefits suspended if they return to state service other than as a legislator and perform more than 1,040 hours service during a calendar year.
- 4. Rehired retirees age 62 or older returning to the legislature** will have the option of suspending retirement benefits and resuming active membership or continuing to receive retirement benefits while serving as a member of the General Assembly. The election must be made within 30 days of rehire and is irrevocable.

GDCP PLAN

- 1. Reminder: Rehired retirees working part-time must not be enrolled into the GDCP Plan.** Similarly, rehired retirees are exempt from Social Security withholding. Rehired retirees are subject to Medicare withholding. Any rehired retiree currently enrolled in the GDCP Plan should have been terminated from the plan by June 1, 2009. Social Security withholding should also cease. Refunds of GDCP plan contributions will be issued over the next few months to rehired retirees currently enrolled in the plan.

(continued)



JRS PLAN

1. **Rehired retirees less than age 60 returning** to any state position, including for or as an independent contractor, other than as a member of the General Assembly will have benefits suspended. Upon subsequent termination of service, the member will resume receipt of pension benefits at the rates in force prior to return to service plus any increases granted while in state service.
2. **Rehired retirees age 60 or older** returning to any state position, including for or as an independent contractor, other than as a member of the General Assembly will have benefits suspended only in the event the member performs more than 1,040 hours of service in any calendar year.

Reminders about Retirement System Forms

Any ERS (or systems it administers) form will not be considered filed with the Board of Trustees if it is not received by ERS. Any forms turned into any agency will not be valid unless ERS receives it. This includes retirement applications, beneficiary designations, PLOP request forms, etc.

Employees on Leave Without Pay

For employees who go on leave without pay, if they wish to continue GTLI Coverage, they must complete the GTLI Continuation While on Leave Without Pay form, which must be received by ERS. If ERS does not have this completed form on file, the employee will have no GTLI coverage while on leave without pay. The form is available on the ERS website. (GSEPS members do not have GTLI.)

Rehiring Retired or Former Employees

- **Completion of Rehired Retiree Reporting Form** — If rehiring an employee who is retired from the Employees' Retirement System, you must complete this form and return it to ERS. The form is available on the ersga.org website in the Employers section.
- **GSEPS or "New" plan?** — For state employers, contact ERS when you are rehiring an employee with prior state service to determine the correct retirement plan eligibility. Rehired employees who are required to be covered under the "New" plan may choose to transfer their retirement plan membership to GSEPS by completing the GSEPS Opt-In Form.

Community Service Boards Update

Rehired Retirees

Retirees (including contract employees) rehired by Community Service Boards (CSB) are limited to 1,040 hours per calendar year; except rehired retirees employed as of July 1, 2004 are not subject to the 1,040 hours employment restriction. [O.C.G.A. 37-2-6.1(k)]

Transferring to a CSB

As a reminder, the criteria for employees transferring to a CSB and retaining their ERS pension plan membership are as follows [O.C.G.A. 37-2.6.2 (a)]:

- ERS member as of June 30, 1994
- Employed by the state in a mental health capacity as of June 30, 1994
- No breaks in service after July 1, 1994

Employer Contribution Rates

Employer Contribution Rates currently in effect will be the same for FY2010 and FY2011. The rates can be found on the ERS website in the Employers section.

Online Beneficiary Designations/Membership Applications

Online Beneficiary Designations/Updates available for all plan members:

Effective July 1, 2009, all members may update their beneficiaries online by accessing their account on the web at www.ersga.org. For JRS, GDGP and PSERS, new employees should still complete a Membership Application/Beneficiary Designation form (updated forms are available on the ERS website in the Employers section). GSEPS members do not complete a Membership Application. They are notified by ERS after hire to make their designation online. Beginning July 1, 2009, LRS new hires will no longer complete a Membership Application. They will be handled in the same manner as GSEPS new hires and be sent a Welcome letter from ERS instructing them to make their beneficiary designation online. The Welcome letter is generated after the first pension contribution information is reported to ERS.

In the event of any conflict between this publication and the laws, rules and regulations governing the plans, the terms of the laws, rules and regulations will have precedence.

Fun Georgia Facts!



Auraria (near Dahlonega) was the site of America's first Gold Rush in 1828

Georgia is the largest state east of the Mississippi



Wild horses graze on Cumberland Island



The Cherokee Rose is our state flower



Macon's Wesleyan College first college in the world to grant degrees to women



Our official state fish is the largemouth bass



Coca-Cola was invented in Atlanta in 1886

