

House Bill 361

By: Representatives Willard of the 51<sup>st</sup>, Jones of the 47<sup>th</sup>, Dollar of the 45<sup>th</sup>, Martin of the 49<sup>th</sup>, Golick of the 40<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act providing in Fulton County a system for pension and retirement to pay  
2 teachers and employees of the Board of Education of Fulton County, approved February 2,  
3 1945 (Ga. L. 1945, p. 528), as amended, particularly by an Act approved May 11, 2009 (Ga.  
4 L. 2009, p. 4004), an Act approved April 11, 2012 (Ga. L. 2012, p. 4982), and an Act  
5 approved May 6, 2013 (Ga. L. 2013, p. 4026), so as to provide that contributions made into  
6 the pension and retirement plan by employees shall be considered employer contributions for  
7 tax purposes; to repeal a certain provision relating to employee contributions paid by the  
8 employer; to provide that the Board of Education of Fulton County shall administer the plan;  
9 to provide for a pension board; to provide for members and terms; to provide for the filling  
10 of vacancies; to provide for officers; to provide for rules and regulations; to provide for  
11 conflicts of interest; to provide for related matters; to repeal conflicting laws; and for other  
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 An Act providing in Fulton County a system for pension and retirement to pay teachers and  
16 employees of the Board of Education of Fulton County, approved February 2, 1945 (Ga. L.  
17 1945, p. 528), as amended, particularly by an Act approved May 11, 2009 (Ga. L. 2009, p.  
18 4004), an Act approved April 11, 2012 (Ga. L. 2012, p. 4982), and an Act approved May 6,  
19 2013 (Ga. L. 2013, p. 4026), is amended by revising subsection (e) of Section 2.07 as  
20 follows:

21 "(e) Employee contributions made on or after July 1, 1990, shall be treated as employer  
22 contributions for purposes of determining the tax treatment of such contributions pursuant  
23 to Section 414(h) of the Code and these contributions shall not be included as gross income  
24 of the employee until such time as they are distributed or made available."

**SECTION 2.**

Said Act is further amended by repealing subsection (f) of Section 2.07.

**SECTION 3.**

Said Act is further amended by revising Section 12.01 as follows:

**"SECTION 12.01.**

Pension board, appointment, and term of office.

(a) The Board of Education of Fulton County shall be the plan sponsor and funding agent and shall have full responsibility and authority for interpreting and implementing the plan.

(b) Administration of the plan shall be carried out under the direction of the board of education by a committee of the board of education which shall be known as the 'pension board' and which shall consist of seven voting members and one nonvoting member.

Except as otherwise provided in subsection (b.1) of this section, members shall be qualified and chosen as follows:

(1) The superintendent of the Fulton County School System, ex officio, who shall not have a vote;

(2) The chief financial officer of the Fulton County School System, ex officio;

(3) The chief human resources officer of the Fulton County School System, ex officio; and

(4) Two members nominated by the pension board and appointed by the board of education who shall be former teachers or employees of the board of education and who shall be pensioners;

(5) Two members nominated by the pension board and appointed by the board of education who shall be active teachers or employees of the board of education and participants in the plan; and

(6) One member nominated by the pension board and appointed by the board of education who shall be an active or former school administrator within the Fulton County School System and a participant in the plan.

(b.1)(1) The terms of office of the members of the pension board serving on the effective date of this Act shall end on May 31, 2018. The members of the pension board selected under paragraphs (1), (2), and (3) of subsection (b) of this section shall take office on June 1, 2018, and serve during the term of the qualifying office, provided that such individuals serving in such a qualifying office on an acting or interim basis shall serve during their acting or interim tenure in the qualifying office and until their successors are appointed and qualified. All other members qualified and appointed as provided for in

subsection (b) of this section shall take office on June 1, 2018, and serve terms as described within this subsection. One member appointed under paragraph (4) of subsection (b) of this section shall serve for a one-year term and one member appointed under such paragraph shall serve for a two-year term. One member appointed under paragraph (5) of subsection (b) of this section shall serve for a three-year term and one member appointed under such paragraph shall serve a four-year term. The member appointed under paragraph (6) of subsection (b) of this section shall serve a four-year term. After the completion of the initial term of office commencing on June 1, 2018, any subsequent member as appointed pursuant to subsection (b) of this section shall serve a term of four years. There shall be no limit on the number of terms a member appointed to the pension board may serve.

(2) If at any time the pension board has four or more vacancies, the nomination process provided by paragraphs (4), (5), and (6) of subsection (b) of this section shall be suspended in part and the board of education shall appoint members to any vacant positions on the pension board from the participation group from which the vacancy occurs.

(3) If the board of education fails to confirm two successive pension board nominations for membership to the pension board, then the board of education shall appoint a member to that position from the participation group from which the vacancy occurs.

(4) Members of the pension board shall serve at the pleasure of the board of education. The board of education may by majority vote remove any member of the pension board without notice or hearing.

(c) In the event of the death, resignation, removal, or other disability of a pension board member which renders him or her incapable of performing the duties of a member of the pension board during his or her or her term of office, such pension board member's replacement shall be selected in the manner specified in subsection (b) of this section for such position and shall serve the remaining balance of such term of office. A member selected as a replacement under the conditions of this subsection may be reappointed to the board upon expiration of the term of office and there shall be no limit on the number of terms he or she may serve.

(d) The superintendent of the Fulton County School System or his or her designee shall serve as chairperson of the pension board. The pension board shall elect one member to serve as secretary and shall hold a regular public meeting at least once a month at a time and place to be fixed by the pension board. The members of the pension board shall serve without pay. The pension board may employ an executive director and other personnel who shall serve at the will of and under the direction of the superintendent of the Fulton County School System. With the consent of the board of education, such executive

director shall be treated as an employee of the Fulton County Board of Education for benefits and tax reporting purposes.

(e) The pension board shall have the authority, subject to the approval of the board of education, to adopt rules and regulations in the administration of this Act and in carrying out the provisions of this Act and to provide for the equitable disposition of any matter not specifically covered by the provisions of this Act; provided, however, that all such rules and regulations shall be consistent with the terms and spirit of this Act.

(f) The chief financial officer of the Fulton County School System shall be designated as the treasurer and custodian of this plan and shall be subject to the direction of the superintendent of the Fulton County School System for the purpose of carrying out his or her duties under the plan. Whenever any pension has been granted by the pension board, a check shall be drawn on the pension fund, providing for the payment of the pension as the same matures, and shall be signed by the chairperson of the pension board and countersigned and paid by the treasurer.

(g) Four members of the pension board shall constitute a quorum, and notice by the secretary shall be given for special or called meetings of the pension board. The chairperson of the pension board shall provide a bond with a good corporate surety in the sum of not less than \$5,000.00 for his or her faithful performance as chairperson of the pension board, and the treasurer shall provide a bond with a good corporate surety in the sum of not less than \$25,000.00 for his or her faithful performance as treasurer and custodian of the plan. The premiums on such bonds shall be an expense of this plan.

(h) Except as otherwise provided in the plan, no member or employee of the pension board shall have any personal interest in the gains or profits from any investment made by the pension board or use the assets of this plan in any manner, directly or indirectly, for himself or herself or as an agent, except to make such payments as are authorized by the pension board in accordance with the plan."

#### **SECTION 4.**

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