

House Bill 635 (AS PASSED HOUSE AND SENATE)

By: Representative Epps of the 144<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 47 of the Official Code of Georgia Annotated, relating to the  
2 Judges of the Probate Courts Retirement Fund, so as to increase the number of years of  
3 mandatory contribution to such fund; to increase the maximum number of years used to  
4 calculate benefits; to provide for certain creditable service; to provide for application and  
5 payment of funds; to provide conditions for an effective date and automatic repeal; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 11 of Title 47 of the Official Code of Georgia Annotated, relating to the Judges of  
10 the Probate Courts Retirement Fund, is amended in Code Section 47-11-40, relating to  
11 eligibility to participate, credit for service rendered, and requirements for judges to  
12 participate, by revising paragraph (7) as follows:

13 "(7) As to judges of the probate courts or employees of the board, file with the board for  
14 each month subsequent to admission as a member by the close of business of the  
15 twentieth day of each month the sum certain of \$105.00; provided, however, that the  
16 requirement for such dues shall cease after the member has paid such dues for a period  
17 of ~~20~~ 30 years; and"

18 **SECTION 2.**

19 Said chapter is further amended by adding a new Code section to read as follows:

20 "47-11-43.

21 Any member who is active on July 1, 2016, may obtain creditable service for any service  
22 in excess of 20 years as judge of the probate court, employee of the board, or  
23 secretary-treasurer, but not more than the actual number of years of service or 30 years,  
24 whichever is less. Any such member shall make application in such form and manner as  
25 the board deems appropriate and shall pay to the board an amount determined by the board

26 to be sufficient to cover the full actuarial cost of granting the creditable service as provided  
 27 in this Code section. Any such application and payment must be received not later than  
 28 December 31, 2016."

29

### SECTION 3.

30 Said chapter is further amended by revising Code Section 47-11-71, relating to amount of  
 31 retirement benefits, optional retirement benefits, and manner in which persons not eligible  
 32 for maximum benefits at retirement may become eligible, as follows:

33 "47-11-71.

34 (a)(1) Any judge of the probate court or employee of the board who is approved for  
 35 retirement benefits as provided in subsection (a) of Code Section 47-11-70 prior to July  
 36 1, 1996, shall be paid a monthly sum equal to 5 percent of the judge's or employee's  
 37 average monthly net earnings, as may be determined from reports of such earnings and  
 38 subject to the limitations on such earnings as provided for in Code Section 47-11-40, for  
 39 each year served by the judge or employee up to, but not exceeding, a total of ~~20~~ 30  
 40 years, except as provided in subsection (c) of this Code section. No time prior to  
 41 December 22, 1953, or for which dues have not been paid in accordance with Code  
 42 Section 47-11-40 shall be considered in determining the number of years of service of  
 43 any such judge of the probate court for purposes of determining retirement pay and no  
 44 time prior to January 1, 1990, or for which dues have not been paid in accordance with  
 45 Code Section 47-11-40 shall be considered in determining the number of years of service  
 46 of any such employee of the board for purposes of determining retirement pay.

47 (2) Any judge of the probate court or employee of the board who is approved for  
 48 retirement benefits as provided in subsection (a) of Code Section 47-11-70 on or after  
 49 July 1, 1996, shall be paid a monthly sum equal to 5 percent of the judge's or employee's  
 50 final monthly net earnings, as may be determined from reports of such earnings and  
 51 subject to the limitations on such earnings as provided for in subparagraph (G) of  
 52 paragraph (5) of Code Section 47-11-40, for each year served by the judge or employee  
 53 up to, but not exceeding, a total of ~~20~~ 30 years. No time for which dues have not been  
 54 paid in accordance with Code Section 47-11-40 shall be considered in determining the  
 55 number of years of service.

56 (b)(1) In lieu of receiving the retirement benefits provided for in subsection (a) of this  
 57 Code section, a judge of the probate court or employee of the board may elect in writing,  
 58 on a form to be provided by the board at the time the judge or employee becomes eligible  
 59 to receive retirement benefits, to receive a monthly retirement benefit payable up to the  
 60 date of the death of the designated survivor, which benefit shall be based on the judge's  
 61 or employee's age at retirement and the age of the judge's or employee's designated

62 survivor at that time and shall be computed so as to be actuarially equivalent to the total  
 63 retirement payment which would have been paid to the judge or employee under  
 64 subsection (a) of this Code section. A member who is unmarried at the time of such  
 65 election may designate a survivor at the time of making such election. If a member is  
 66 married at the time of such election, his or her spouse shall be the designated survivor  
 67 unless another person is so designated with the written agreement of the spouse. In any  
 68 event, the designated survivor shall be a person with whom the member has a familial  
 69 relationship through blood, marriage, or adoption. Such actuarial equivalent shall be  
 70 computed on the Group Annuity Table for 1951 using 5 1/2 percent interest. The spouse  
 71 designated at the time of the judge's or employee's retirement shall be the only spouse  
 72 who may draw these benefits.

73 (2) If a member elects the option provided in paragraph (1) of this subsection, then, after  
 74 the approval of the application for retirement, the following provisions apply:

75 (A) If the member's designated survivor shall predecease the member, the member  
 76 may, in writing on forms prescribed by the board and subject to approval by the board,  
 77 revoke such option and thereafter receive during the member's lifetime a monthly  
 78 retirement benefit commencing on the date on which the board approves such  
 79 revocation, but not for any period prior to such approval, equal to the maximum  
 80 monthly benefit which would have been payable to him had such option not been  
 81 exercised;

82 (B) If there is entered a final judgment of complete divorce between the member and  
 83 the member's spouse who is the designated survivor, the member may, in writing on  
 84 forms prescribed by the board and subject to approval by the board, revoke such option  
 85 and thereafter receive during the member's lifetime a monthly retirement benefit  
 86 commencing on the date on which the board approves such revocation, but not for any  
 87 period prior to such approval, equal to the maximum monthly benefit which would have  
 88 been payable had such option not been exercised; and

89 (C) If, following the death of the member's spouse or the entry of a final judgment of  
 90 divorce between the member and the member's spouse who is the designated survivor,  
 91 the member remarries, the member may, in writing on forms prescribed by the board  
 92 and subject to approval by the board, elect such option with respect to the member's  
 93 new spouse. The joint and survivor benefit shall be determined as of the date of the  
 94 election. No such election shall be made until the expiration of one year after the date  
 95 of remarriage or until a child of the remarried couple is born, whichever is earlier.

96 (c) Any provision of this chapter to the contrary notwithstanding, any judge of the probate  
 97 court, employee of the board, and any secretary-treasurer of the fund who has served for  
 98 a total of ~~20~~ 30 years as judge of the probate court, employee of the board, or

99 secretary-treasurer, or a combination of such service, and who has contributed all dues  
 100 owed to the fund as provided in this chapter but who is not eligible upon retirement to  
 101 receive the maximum retirement benefits provided for in this chapter shall be entitled to  
 102 continue to contribute dues to the fund or, in the case of the secretary-treasurer, to continue  
 103 to receive credit during such period of time as the judge, employee, or secretary-treasurer  
 104 shall continue to serve as a judge of the probate court, employee of the board, or  
 105 secretary-treasurer beyond ~~20~~ 30 years of service. The average monthly net earnings of  
 106 any such judge of the probate court, employee of the board, or secretary-treasurer retiring  
 107 prior to July 1, 1996, shall be added to the total monthly net earnings of such judge of the  
 108 probate court, employee of the board, or secretary-treasurer during the ~~20~~ 30 year period  
 109 of service. The sum of these two amounts shall then be divided by ~~240~~ 360, and the result  
 110 of such division shall then be used as the average monthly net earnings upon which  
 111 retirement benefits shall be calculated; provided, however, such average monthly net  
 112 earnings shall not exceed the limitations specified in subsection (b) of Code Section  
 113 47-11-21 and in Code Section 47-11-40.

114 (d) The calculation of benefits under this Code section shall apply to persons who were  
 115 receiving benefits pursuant to the provisions of this chapter prior to July 1, 1988, as well  
 116 as to persons who become eligible to receive benefits on or after that date. Effective July  
 117 1, 1988, the monthly benefit of each person who was receiving a benefit prior to that date  
 118 shall be increased in the amount necessary to comply with the requirements of this  
 119 subsection."

120 **SECTION 4.**

121 This Act shall become effective on July 1, 2016, only if it is determined to have been  
 122 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia  
 123 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not  
 124 become effective and shall be automatically repealed in its entirety on July 1, 2016, as  
 125 required by subsection (a) of Code Section 47-20-50.

126 **SECTION 5.**

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