

## **BIG HEALTH INSURANCE CHANGES COMING JANUARY 2010 --- DEPT. OF COMMUNITY HEALTH SCHEDULES RETIREE MEETINGS**

By now you should have received by mail the annual notice from the Department of Community Health (DCH) advising you of yet more changes in our State Health Benefit Plan (SHBP) retiree health insurance coverage effective January 1, 2010.

The biggest change facing teacher retirees and state retirees currently enrolled in Medicare (and those who will be Medicare-eligible in the future) is the new DCH-imposed policy requiring retirees to enroll in a Medicare Advantage Plan (MAP) in order to continue receiving the state's subsidy of approximately 75% of the total premium cost of their coverage.

Your DCH notice also contains the usual list of meetings scheduled for retirees to learn about changes in coverage. Some points about the DCH notice include:

- No premium rates are shown. Premiums will be set at the August 13 or August 27 meeting of the Board of Community Health.
- The Retiree Option Change period starts October 9 and ends on November 10, 2009.
- Retiree meetings are scheduled from August 3 to October 20, 2009.
- Retiree meetings will address **ONLY** the new Medicare Advantage Plan. Changes in other SHBP options will **NOT** be discussed in the meetings, but will be explained in the 2010 Retiree Decision Guide that will be published in late September. Therefore, DCH suggests that retirees under age 65 and not yet eligible for Medicare may not want to attend. (*Please see Note following this article.*)
- If you or your covered spouse is 65 or over, you must actively select one of the Medicare Advantage Plans (MAP) during the option change period if you receive **any state subsidy in cost**.
- If you fail to actively select the MAP you wish to join (either United Healthcare or CIGNA), your coverage will be changed automatically to the MAP offered by the company that now covers

you, except for Kaiser Permanente HMO members, who will automatically be enrolled in the CIGNA MAP.

- As stated before by DCH, if you are a retiree aged 65 and over, you will lose the state's subsidy of your health insurance premium if you do not join a MAP. Presumably you may retain your regular SHBP option (PPO, HRA, HMO) if you wish, but you will have to pay the entire premium
- DCH will also offer two MAP options with a difference in out-of-pocket (OOP) cost when medical services are received. The Standard MAP option has a \$1,000 OOP maximum; the "buy-up" Premium option has a lower (\$500) OOP maximum. Both OOP maximums do not include office visit and prescription drug copays. The lower \$500 OOP maximum option is primarily a result of an inpatient hospital stay where the per day copay is \$100 per day for the first three days rather than \$190 per day for four days in the Standard \$1,000 OOP maximum option. Premium rates for this option have not been announced.

**NOTE:** What if your 65<sup>th</sup> birthday occurs during calendar 2010, and you become eligible for Medicare? GSRA strongly advises you to attend one of these retiree meetings to find out more about the Medicare Advantage Plans.

Here is what should happen as your 65<sup>th</sup> birthday approaches: Four months before your 65<sup>th</sup> birthday, the SHBP will notify you that you will need to change to a Medicare Advantage Plan. Three months before your 65<sup>th</sup> birthday, the Social Security Administration will notify you of your eligibility for Medicare and will send you the enrollment information you need. Medicare (Part A and Part B) coverage begins on the first day of the month you turn 65. You must inform the SHBP as soon as your Medicare enrollment is complete so that your premiums can be lowered to reflect your new SHBP MAP coverage.

## GSRA MEMBERS ASK GOOD QUESTIONS

GSRA members are submitting questions through the website to the Communications Committee for response. Here are some recent “Frequently Asked Questions” along with GSRA responses.

**Question:** *“Why is it the teachers that retired (no more than a couple of years ago get their COLA and long retired State employees don’t?”*

**Response:** The Teachers Retirement System Board of Trustees developed a policy several years past that included the 3% COLA (awarded on a semiannual basis) in the actuarial projections and set the employer contribution rate so that the funding for the COLAs would be included. The Attorney General of Georgia has opined that this policy established an implied contract for the COLA for retirees under the TRS. On the other hand, the **Employees** Retirement System Board of Trustees did **not** develop such a policy and in years past has awarded the COLAs on an ad hoc basis with an underlying intent to fund the COLAs on a pay-as-you-go basis. Unfortunately, the employer contribution rate for the ERS was reduced in the late nineties and again in 2001-2002. These reductions have substantially affected the overall fund, and the current Administration has refused to increase the employer contribution rate to the ERS. The Attorney General of Georgia has opined that in the absence of a policy and specific legislation, the COLA is **not** an implied contract for retirees under the ERS.

**Question:** *“Why can’t GSRA sue the State Employees Retirement System Board for equal treatment [regarding the COLAs]?”*

**Response:** GSRA leadership is in the process of contacting attorneys as directed by the membership in the recent poll. Information about the legal advice obtained will be shared with the membership when something is definite.

**Question:** *“What do we need to be doing now to work on COLAs and what information do we need to put in the correspondence to the Rep. and Senators?”*

**Response:** It’s probably a good idea for us all to keep communicating with legislators about what the lack of a COLA means to us personally, and to our

families, and of course to remind our elected officials that retirees DO vote. Gubernatorial Candidates have been invited to participate in a panel discussion at the GSRA Annual Meeting—so please plan to attend.

**Question:** *“In the correspondence I have sent to my Senator and Representative, I have used the two 1 ½% prefunded COLAs a year wording. If this is not what we need to convey please advise us what is the correct wording.”*

**Response:** We recommend the following language: “3% prefunded COLAs that are awarded at the rate of 1 ½% on a semi-annual basis.”

**Question:** *“From having been at the [5/21 ERS Board] meeting I really felt that there is another agenda to get the alternative investment passed and a member addressed the audience and alluded to “if they did that [got higher returns from alternative investments] then they would have the money to give us a COLA.”*

**Response:** It is the position of GSRA that some of the Board members are in favor of adding alternative investments to the approved listing. However, if additional investment income is generated from the alternative investments (and there is more risk for losses), it will not be sufficient to pay for the COLA. The bottom line is that the employer contribution rate will need to be increased to raise the funded percentage.

**GOT A QUESTION OF YOUR OWN??**

**JUST LET US KNOW BY EMAIL TO**  
[communications@mygsra.com](mailto:communications@mygsra.com)

**OR WRITE TO:**  
**GSRA - COMMUNICATIONS COMMITTEE**  
**PO BOX 108**  
**BETHLEHEM, GA 30620**

**If we don’t know the answer, we’ll try to find it.**

## **BOARD OF REGENTS HEALTH PLAN PRESCRIPTION DRUG PLAN DOCUMENT STRICTLY APPLIED**

A GSRA member suggested that a change in the application of the prescription drug plan for the Board of Regents Health Plan be posted. The change apparently results from a different interpretation of coverage on the part of the new BOR pharmacy administrator, Medco, which took over in 2009 from Express Scripts.

The Board of Regents benefit manager states that the prescription drug (Rx) plan document requires a maximum out-of-pocket (OOP) copay by coverage tier (individual, two-party, etc.) rather than by person. After the plan member has paid the OOP amount in a calendar quarter, no further copayments are required for Rx purchases during that quarter. The new administrator, Medco strictly applies the plan document maximum by coverage tier. Conversely, the former prescription drug plan administrator, Express Scripts, did not consistently apply the maximum copay by coverage tier.

The impact of the different methodologies is that a person with individual coverage has a \$450 out-of-pocket (OOP) maximum per calendar quarter, that same person having a two-person plan has a \$900 OOP per quarter, or that same person having a family coverage tier has \$1,340 OOP per quarter.

By following this procedure, the Board of Regents plan departs from the practice followed by many other plans which administer the maximum OOP for a two-person plan as if the OOP maximum is per person up to a family maximum of \$900 or \$1,350. Although the new BOR methodology does not affect a high percentage of plan members, it does increase the out of pocket payouts for persons who incur "high" Rx costs.

If you are a BOR Health Plan member and are confused by this change, the phone number for Medco claims service is 800-713-9266.

## **ERS ISSUES ACTUARIAL REPORTS FOR YEAR ENDING JUNE 30, 2008**

The Employees Retirement System Actuarial Reports for the Pension Plan and the Group Term Life Insurance Plan were issued on June 19, 2009 for the year ending June 30, 2008. The Pension Report shows the funded percentage dropping from 93% as of June 30, 2007 to 89.4% as of June 30, 2008. GSRA was interested in financial components—other than the employer contribution rate reduction from 14.5% to 10.41% in 2001—that affects the financial status of the pension trust fund. In addition, the Actuarial Reports for the Group Term Life Insurance Plan shows that the trust fund to be adequately funded with a "zero" employer contribution for FY 2010 and FY 2011.

### **ERS Pension Fund**

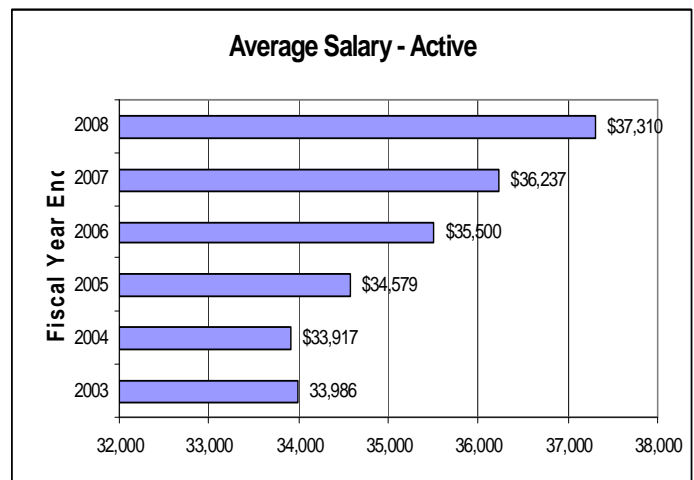
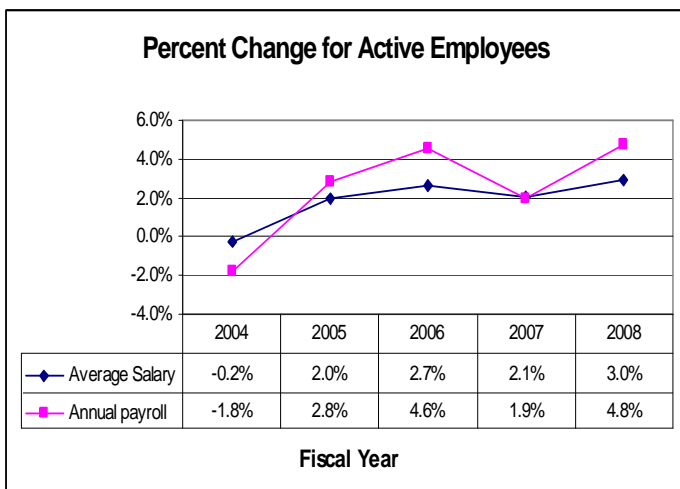
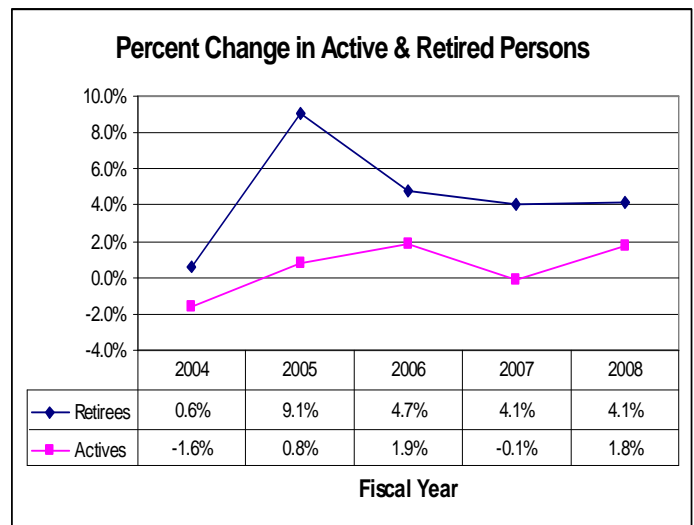
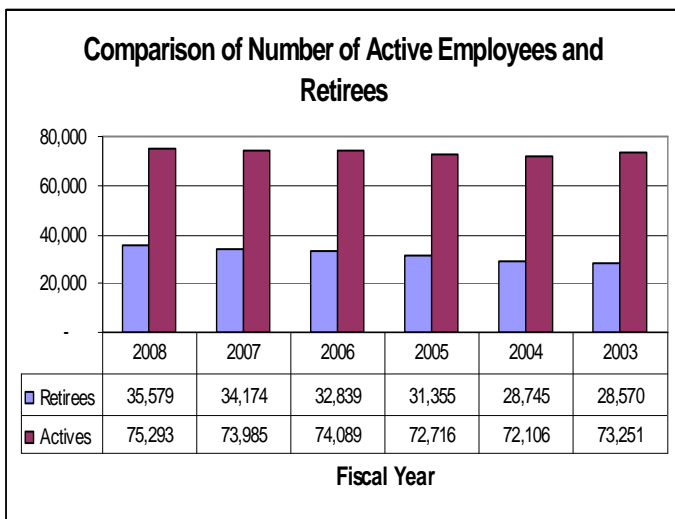
Although the Actuarial Reports have filled with interesting facts, GSRA has chosen the following as the most salient facts:

- ERS has prospective pension liabilities of \$17.4 billion;
- The **market value** of assets to cover the \$17.4 billion liability was \$13.1 billion (**Actuarial value** of \$14.0 billion) as of June 30, 2008 (Note: the market value dropped to \$10.3 billion as of April 30, 2009);
- The **unfunded liability** is the difference between liabilities and the **actuarial** value of assets or **\$1.7 billion**—an increase of \$622 million in FY 2008. (Note: the calculation is \$17.4 billion liabilities, less actuarial assets of \$14 billion, less the present value of future normal contributions of \$1.7 billion.)
- The fund has changed from a 'surplus' of \$52.8 million in 2003 to an unfunded liability of \$1.7 Billion in 2008 – an increase of over \$1.75 Billion in 5 years.

- The actuarially accepted method used to eliminate the requirement to increase the employer contribution rate in FY 2011 is to increase the number of years to collect (amortize) the unfunded Liability—which increased to 26 years from 10 years in 2003;
- The actuary’s transmittal letter states that the valuation reflects semi-annual 1.0% Ad Hoc COLAs effective through January 1, 2011 even though the Board failed to award a COLA on June 16<sup>th</sup>, but did approve a 1.5% “bonus” to be paid in October 2009;
- Investment income was a negative \$479,471 million during FY 2008;
- The employer contribution rate was held at 10.41% through FY 2011, except for new

employees as of January 1, 2009, whose employer rate for the pension plan is 6.55%.

The bottom line from all of these facts is that the ERS pension trust fund is underfunded by the State to meet its obligations of maintaining the purchasing power of retirees and future retirees. The number of retirees is expected to continue to increase for the next several years while the number of employees and base salaries are not expected to increase to support the promises unless the State increases the employer contribution rate. The following graphs demonstrate how revenue into the fund has become stagnant while the expense has grown.



### **Group Term Life Insurance**

The Cavanaugh Macdonald actuarial firm produced separate reports for Pre-Retirement Benefits and Post-Retirement Benefits under the Group Term Life Insurance plan. Both reports

indicated that the trust fund is adequately funded without an employer contribution. The market value of assets in the life insurance trust fund is in excess of the Actuarial Accrued Liability by \$147 million.

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## **RETIREE LAWSUITS INCH CLOSER TO CONCLUSION**

The retiree lawsuits (known as *Plymel et al vs. TRS*, *Willis et al vs. ERS*, and *Anderson et al vs. PSERS*) against three State of Georgia retirement systems have for all practical purposes been finalized by settlement agreements between the parties, with the latest court hearing held on July 8. Most retirees covered by the suits have already received their recovery checks and/or their benefit adjustments or will be receiving them shortly. However, the court still has to rule concerning the application by ERS of the 90 percent rule in calculating benefits and that ruling should be forthcoming in the next few months. The PSERS case was the last to be filed and is therefore not as close to conclusion as the other two.

These lawsuits arose when it became known that the three retirement systems were using different mortality tables for different retirement functions. Using the same updated mortality tables for calculating benefits for retirees and their beneficiaries would result in higher retirement benefits for thousands of retirees. For unknown reasons the Boards of Trustees of these retirement systems chose not to approve the newer correct mortality tables. Ultimately the Supreme Court of Georgia held that the systems must use the same mortality table for all their calculations.

Retirees affected by the use of outdated tables are those who chose a pension option that provides a lower retirement benefit during the lives of the retirees in return for a benefit for beneficiaries at the retiree's death. Retirees understood that choosing one of these option plans would reduce their pension, but would provide future benefits for loved ones surviving them. Retirees trusted the retirement system to accurately and consistently calculate the full pension benefit.

The settlement agreements are a result of favorable and unfavorable court rulings for both plaintiffs and defendants. These rulings covered two aspects of the case:

- 1) The "statute-of-limitations" ruling establishes the period for which retirees could recover back payment. The agreements specify that the recovery period is six years from the date the lawsuits were filed. For TRS retirees the statute of limitations begins on April 1, 1998; for ERS retirees that date is January 31, 2001.
- 2) The "accrual" ruling establishes the pool of retirees who would participate in recovery of back benefits and be entitled to adjustment of their current retirement benefit amount.

The retirees lost the statute-of-limitations ruling when the court established only a six-year limitation from the date the lawsuit was filed rather than an earlier more favorable twenty-year limitation. The retirement systems lost on the accrual ruling when the court ruled that it did not matter when a person retired. As long as the retiree received a benefit check after the retirement system's statute of limitations date, the retiree is entitled to recovery and the retiree's current benefit must be adjusted to the correct amount.

### ***How the Lawsuits Came About***

These lawsuits first began when TRS admitted that it was using the wrong mortality tables and option factors to compute benefits for retirees who chose to receive a lower amount during their lives in return for a benefit for beneficiaries at the retiree's death. The TRS Board corrected this error

and adopted new tables and factors for those retiring on or after March 1, 2003. However, TRS refused to recalculate the current retirement benefits for those retirees retiring prior to that date or to provide any recovery for amounts which those retirees were shorted prior to that date. This refusal by the TRS Board resulted in the *Plymel et al vs. TRS* lawsuit.

Interestingly during this period the ERS Board took no action. ERS had the same information that TRS had and was using the same incorrect tables and option factors for its retirees. ERS also used the same actuary that provided TRS with the information that TRS used to calculate the new benefits.

The inaction of ERS over the nearly four-year gap from early 2003 until March 1, 2007 has worked a major hardship on those ERS retirees who retired during that period and chose a lower pension for the duration of their lives. The unwillingness of ERS to, at the very least, institute the correct tables and factors in 2003 as did TRS, resulted in these “gap” retirees ultimately losing to attorney’s fees 25% of the recovered shortage. These retirees should examine their recovery check from The Garden City Group and recognize that the reduction for attorney fees is a direct result of the ERS Board’s failure to consider the retirees’ rights. Additionally, for the rest of these retirees’ lives, they have lost 25% of the amount they were shorted.

### ***Objections to the Settlement***

There were only a couple of objections to the ERS settlement. One ERS retiree filed an objection to the payment of attorney fees from the common fund.

*Note:* The “common fund” concept in Georgia provides that all funds recovered from a class action lawsuit will be put into a common fund. Any amounts due the members of the class, plus any attorney fees and expenses, will be paid from the common fund.

The ERS retiree believed that the ERS board acted with deliberate indifference in refusing to act when the Board knew it was using the wrong tables and factors. The retiree’s objection was in two parts: (a) that the court require the Garden City Group to distribute to retirees the gross sum of any and all retroactive benefits

due those retirees, without regard to attorney’s fees and expenses and (b) to require ERS to establish retirees’ future benefit payments at the full benefit amounts calculated by ERS using the proper tables and option factors, without regard to attorney’s fees and expenses. The Objector requested that the court require the State of Georgia to pay from state funds the full cost of reasonable attorney fees and expenses for Class Counsel.

The basis for the objection was the specific inaction of the ERS Board immediately after the October 30, 2006 decision by the Supreme Court of Georgia in the *Plymel* case. Had the trustees acted swiftly at the December 14, 2006 ERS Board meeting by recognizing that retirees were rightfully entitled to and authorizing additional benefit payments may have limited the amount of recovery by class action suit. Since there was no mention of the *Plymel* decision in the December Board minutes, it appears that the ERS Board waited for the *Willis* suit to be filed on January 31, 2007 before taking any action. Remarkably the ERS Board of Trustees adopted new tables and option factors at its February 15, 2007 meeting, to become effective March 1, 2007, but only for new retirees. Because of this inaction and the Board’s delaying tactics, every retiree who is now a class member lost 25% of the benefits they had been denied.

The objection was not upheld by the Judge. It was felt that since Class Counsel and the ERS attorneys had hammered out the settlement agreement, any change would revert the two parties to square one. At least with the settlement agreement both parties could move forward.

### ***Good News/Bad News – Recovered Benefits Come at a Cost***

Both the benefits and the cost to Georgia’s retirees are considerable. There are two adjustments; 1) the recovery amounts which are covered by the statute of limitations, and 2) the future benefit adjustments which are the benefit amounts going forward. In the TRS case, early reports put the recovery amount at well over \$300 million and the cost of future benefits also well over \$300 million. The calculations to determine the

amount of the common fund have it well over the \$600 million mark. If this is true, then Class Counsel will pocket over \$180 million less the expenses of the case. As soon as exact amounts are known we will publish those.

In the ERS case, reports are that the recovery amount is over \$18 million and the present value of future benefits is over \$50 million. That would make the common fund total over \$68 million with the attorneys receiving \$17 million less the expenses in the case. PSERS amounts have not yet been determined. Amounts were less in the ERS case due to the lesser number of retirees in the ERS system and the fact that back payment in the ERS case went back to 2001 while the TRS back payments went back to 1998. These dates are based on the dates the different court suits were filed.

Retirees of TRS will see the amount to which they were entitled reduced by 30 percent and reductions to benefits for ERS and PSERS retirees will be 25 percent, to pay for these legal fees and expenses. Retirees are footing the bill for legal fees and expenses to the tune of almost \$200 million.

These amounts are not exact but are close approximations to final settlement amounts. There may be some changes to the ERS amounts depending upon the court's ruling on the 90 percent rule.

All three lawsuits have their own websites, maintained by The Garden City Group. The websites are [www.TRSSuit.com](http://www.TRSSuit.com), [www.ERSsuit.com](http://www.ERSsuit.com), and [www.PSERScase.com](http://www.PSERScase.com) for those who might like more information about the court actions.

## **GSRA CONCERNS ---- AND QUESTIONS**

### ***“Winners” and “Losers”***

As these court cases conclude, the following questions might be asked. Who benefited? Who was harmed? Who, if anyone, was at fault for the ERS Board's failure to act at its meeting in December of 2006?

Obviously the retirees' Class Counsel benefited greatly, as they reaped millions of additional dollars in fees when the lawsuit was filed in 2007, for very little work and knowing ERS would be bound by the TRS decision.

Who was harmed? Thousands of ERS and PSERS retirees who could have received the full value of their earned retirement, but instead, because the Board failed to act promptly, have lost 25% of their erroneously calculated earnings for, not a day, not a year, but for the rest of their lives.

And so who, if anyone, acted irresponsibly? The attorney for the ERS Board? Did the attorney advise the Board during that fateful December meeting that, based

on the TRS ruling, ERS would also lose? Did said attorney tell the Board that it shouldn't matter to the Board, that the settlement would be the same for ERS regardless, because attorney fees could be paid from member assets, not ERS funds?

How about the ERS executive director? Did the director advise the Board that it should take a public position with the membership of accepting and abiding by the TRS decision?

And what about ERS Board members? Were they advised to take a “sit-back-and-wait-to-see-if-we-get-sued” attitude? Because the monetary consequences to ERS would be the same. The choice was: Be sued and lose --- or take the responsible position for the members. They chose to wait for the lawsuit, with all the accompanying legal bills it would bring.

***Lesson learned and what to do about it***

The real underlying problem is that no one involved in this process appears to have the true, earned interests of retiree members at heart. Not the Board, not the executive director and not the ERS attorney. Nothing has been presented that says any of these individuals cared about what the consequences to the members would be. This mostly-Governor-appointed Board, as a group, obviously perceives that its only responsibility is to the Governor, not to ERS retiree members.

So, what to do? We can resolve to have members appointed to the ERS Board who will (1) always ask these questions about any matter the Board considers: “***How will this action affect ERS retiree members?***” ***Are we doing the right thing by them?***” and (2) courageously and intelligently persuade the other Board members to simply do the right thing.

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## **GSRA NEEDS YOU!**

As we see our retirement and health insurance benefits continually under attack, it's obvious that GSRA membership must grow statewide to improve our chances of success in the battle to preserve our benefits and to ensure that promises are kept. As the old saying goes, “There is strength in numbers.”

Organizing local GSRA chapters is the most effective way of growing membership and impacting elected officials' opinions and decisions. GSRA can provide expertise and information, but only members can persuade. In only three short years a total of seven local chapters have organized and are very active. Your state representatives and senators will listen to you as you educate them about the issues that matter most to you. What is a better way to get their attention than to invite the elected officials to your local chapter meetings. Not only do the meetings get the attention of the elected officials, but it helps members to understand issues and how to explain their concerns. Your representatives and senators need to hear from people in the community who matter most to them -- their constituents --- and that would be you.

We all have state retiree friends, neighbors and relatives. Organizing a local GSRA Chapter is

EASY. GSRA will support local chapters financially and provide easy-to-follow written guidelines and tips about how to start a local chapter. Current local chapter representatives and the GSRA Board stand ready to help with your questions and concerns. Having your own local GSRA Chapter is a great way to stay in touch with your retired friends and former work buddies.

There is much to be done, as you no doubt realize after reading just a few issues of the GSRA Newsletter. And don't forget we have an important election coming up in 2010. So: Get together with a few of your close friends, run an ad in your local paper (We'll even help with that too), and start a new chapter in your area!! We especially need chapters in the areas of Augusta, Savannah, Brunswick, Macon, Columbus, and anywhere there isn't one!

Simply visit [www.mygsra.com](http://www.mygsra.com) and click on “Local Chapters” to see the guidelines, tips and standard by-laws; send email to [membership@mygsra.com](mailto:membership@mygsra.com), and you're on your way. Don't use a computer? Just drop a line to GSRA at the address below & write “Membership” on the envelope.



***SAVE THE DATE!!***  
**GSRA 3<sup>RD</sup> ANNUAL MEETING**  
**WEDNESDAY, OCTOBER 21, 2009      12 noon – 4pm**  
**Ga. Public Safety Training Center – Forsyth, GA**  
**2010 Governor's race candidates will be invited for a panel discussion.**  
**These and other exciting speakers will be on hand.      Don't miss it!**  
**More details will follow.**