

House Bill 842 (COMMITTEE SUBSTITUTE)

By: Representatives Walker of the 141st, Cummings of the 27th, Shanahan of the 10th, Skipper of the 137th, Lunsford of the 109th and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 14 of Title 47 of the Official Code of Georgia Annotated, relating to the Superior Court Clerks' Retirement Fund of Georgia, so as to provide that state court clerks may be members of such retirement fund; to define certain terms; to change the membership of the board of commissioners of such retirement fund; to provide for additional fees to be charged in the state courts; to provide a limitation on service which may be used for purposes of such chapter; to provide for up to 20 years of creditable service for prior service as a state court clerk; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 14 of Title 47 of the Official Code of Georgia Annotated, relating to the Superior Court Clerks' Retirement Fund of Georgia, is amended by striking paragraphs 2 and 3 of Code Section 47-14-1, relating to definitions, and inserting in lieu thereof, respectively, the following:

"(2) 'Clerk' means: a

(A) A clerk of the superior court; or

(B) A clerk of a state court, where the clerk of such state court is someone other than the clerk of the superior court.

(3) 'Deputy clerk' means: a

(A) A deputy of a clerk of the superior court, appointed under Code Section 15-6-59; or

(B) A deputy clerk of a state court appointed as provided by law."

SECTION 2.

Said chapter is further amended by striking in its entirety paragraph (3) of subsection (a) of Code Section 47-14-20, relating to the creation of the board of commissioners of such retirement fund, membership of the board, quorum, and compensation and expenses, and inserting in lieu thereof the following:

"(3) Five ~~superior court~~ clerks who shall be members of the fund, provided that at least one but not more than two of such clerks shall be retired clerks receiving retirement benefits pursuant to this chapter."

SECTION 3.

Said chapter is further amended by striking in its entirety subsection (c) of Code Section 47-14-20, relating to the creation of the board of commissioners of such retirement fund, membership of the board, quorum, and compensation and expenses, and inserting in lieu thereof the following:

"(c) The board shall elect a ~~chairman~~ chairperson from the clerks serving as members of the board who actively hold office as ~~superior court~~ clerks. The term of the ~~chairman~~ chairperson shall be established by rules of the board."

SECTION 4.

Said chapter is further amended by striking in its entirety subsection (a) of Code Section 47-14-50, relating to payments to fund from fines and bonds collected in criminal and quasi-criminal cases, duty of collecting authority to record and remit, and penalty for late payment, and inserting in lieu thereof the following:

"(a) The sum of \$1.75 shall be paid to the board from each fine collected and each bond forfeited and collected in any criminal or quasi-criminal case for violation of state law if the case is tried in any court of this state in which a the clerk of ~~the superior court is clerk,~~ provided that such fine or bond is at least \$5.00 such court is eligible for membership in this retirement fund. The collecting authority shall pay such amounts to the board each quarter or at such other times as the board may provide. It shall be the duty of the collecting authority to keep accurate records of the amounts due the board. Such records may be audited by the board at any time. The sums remitted to the board under this Code section shall be used for the purposes provided for in this chapter. ~~In all counties having a population of more than 600,000 according to the United States decennial census of 1990 or any such future census, where the compensation of the clerk is on a salary basis, this Code section shall not apply.~~"

SECTION 5.

Said chapter is further amended by striking in its entirety Code Section 47-14-51, relating to payments to fund from fees collected in certain civil actions and for recording of instruments pertaining to real estate, records, audit of records, and use of sums remitted, and inserting in lieu thereof the following:

"47-14-51.

(a) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in each civil suit, action, case, or proceeding filed in the superior courts or in any other court of this state in which a clerk ~~of the superior court~~ eligible for membership in this retirement fund is clerk, including, without limiting the generality of the foregoing, all adoptions, charters, certiorari, applications by a personal representative for leave to sell or reinvest, trade name registrations, applications for change of name, and all other proceedings of a civil nature, filed in the superior courts or other such courts.

(b) In addition to all other legal costs, the sum of 50¢ shall be charged and collected in addition to any other fees or costs for the processing of all instruments pertaining to real estate filed in the superior courts.

(c) The clerks ~~of the superior courts~~ shall collect the fees provided for in subsections (a) and (b) of this Code section and the fees so collected shall be remitted to the board on a quarterly basis or at such time as the board may provide. It shall be the duty of the clerks ~~of the superior courts~~ to keep accurate records of the amounts due the board under this Code section and such records may be audited by the board at any time. The sums remitted to the board under this Code section shall be used for the purposes provided in this chapter."

SECTION 6.

Said chapter is further amended by striking in its entirety subsection (a) of Code Section 47-14-70, relating to eligibility for retirement benefits, additional or partial retirement benefits, and election to provide both retirement and survivors benefits, and inserting in lieu thereof the following:

"(a) A member with at least 20 years of service shall receive retirement benefits of \$1,700.00 per month upon retirement, provided that at least 12 years of such service shall have been served as a clerk, and the member must have served continuously as a clerk for the four years immediately preceding the member's retirement. Subject to the restrictions set out in this subsection, in computing such service, a member also may include service as a deputy clerk of the superior court and not more than four years of service as a member of the armed forces of the United States on active duty during any period of time in which the United States was engaged in an armed conflict, regardless of whether a state of war

1 had been declared by Congress, provided that no service as a member of the armed forces
2 of the United States shall be deemed as service for purposes of obtaining retirement
3 benefits under this chapter if such service has or will be used in the determination of the
4 member's eligibility for retirement benefits or allowances from any other state or federal
5 retirement program, excluding social security. A clerk of the superior court may not include
6 service for eligibility purposes for years in which the clerk has not completed the training
7 requirements set out in paragraph (1) of subsection (c) of Code Section 15-6-50. No
8 member who is subject to the provisions of Code Section 15-6-50 shall be entitled to
9 include, for purposes of eligibility to receive a benefit under this chapter, service during
10 which he or she was not in compliance with the training requirements of subsection (c) of
11 such Code section."

12 **SECTION 7.**

13 Said chapter is further amended by inserting immediately following Code Section 47-14-77
14 a new Code section to read as follows:

15 "47-14-78.

16 Any member of this retirement system who, prior to becoming a member, served as a clerk
17 of a state court in which the clerk is someone other than the clerk of the superior court shall
18 be entitled to not more than 20 years of creditable service for such prior service. Any such
19 member shall make application to the board in such form and providing such
20 documentation of such prior service as the board deems necessary."

21 **SECTION 8.**

22 This Act shall become effective on July 1, 2002, only if it is determined to have been
23 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
24 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
25 become effective and shall be automatically repealed in its entirety on July 1, 2002, as
26 required by subsection (a) of Code Section 47-20-50.

27 **SECTION 9.**

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