

Senate Bill 307

By: Senator Haines of the 46th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 18 of Title 15 of the of the Official Code of Georgia Annotated, relating
2 to prosecuting attorneys, Chapter 11 of Title 19 of the Official Code of Georgia Annotated,
3 relating to enforcement of the duty of support, Title 45 of the Official Code of Georgia
4 Annotated, relating to public officers and employees, and Title 47 of the Official Code of
5 Georgia Annotated, relating to retirement and pensions, so as to transfer ministerial functions
6 of the Department of Administrative Services relating to the payment of salaries, benefits,
7 fees, and expenses of district attorneys, personnel of district attorneys, and solicitors or
8 solicitors-general of the state courts to the Prosecuting Attorneys' Council of the State of
9 Georgia; to transfer certain records, documents, software, equipment, property, and
10 personnel from the Department of Administrative Services to the Prosecuting Attorneys'
11 Council of the State of Georgia; to provide for rights of transferred personnel; to provide for
12 services and assistance to the council; to provide procedures for the payment of certain
13 assistant district attorneys performing child support duties; to provide for budgeting for
14 victim assistance programs in district attorneys' offices; to provide for alternate hiring
15 procedures and compensation for certain personnel; to change the definition of a certain term
16 relating to accounting for public funds; to provide procedures for the payment of certain
17 contracts of liability and indemnity insurance on behalf of personnel of district attorneys; to
18 change the provisions relating to the payment of certain employer costs under the state
19 employees' health insurance plan; to change the procedures for payment of certain
20 deductions, employer contributions, and other contributions to the Employees' Retirement
21 System of Georgia and the Georgia Judicial Retirement System so as to transfer
22 responsibility for making such contributions to the Prosecuting Attorneys' Council of the
23 State of Georgia; to provide for other matters relating to the foregoing; to provide an
24 effective date; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 "(a) In lieu of hiring a secretary under Code Section 15-18-17, each district attorney, with
 2 the written consent of the governing authority of any county or counties within his or her
 3 judicial circuit, may employ a secretary who shall be an employee of the county which
 4 pays the compensation of the secretary and in which the governing authority has given its
 5 consent to compensate the secretary. Upon employing the secretary, it shall be the duty of
 6 the district attorney to notify the ~~commissioner of administrative services~~ Prosecuting
 7 Attorneys' Council of the State of Georgia of such fact and of the amount of the
 8 compensation to be paid to the secretary. It shall be the further duty of the district attorney
 9 to notify the ~~commissioner~~ Prosecuting Attorneys' Council of the State of Georgia of any
 10 change in the status or compensation of the secretary. The ~~commissioner of administrative~~
 11 ~~services~~ Prosecuting Attorneys' Council of the State of Georgia shall reimburse the county
 12 or counties paying the compensation from funds appropriated or otherwise available for the
 13 operation of the ~~superior courts~~ district attorneys for the compensation paid to the secretary
 14 plus any employer contribution paid for the secretary under the act of Congress approved
 15 August 14, 1935, 49 Stat. 620, known as the Social Security Act, as amended; but such
 16 payments shall not exceed the maximum amount payable directly to or for a secretary
 17 under Code Section 15-18-17."

18 SECTION 4.

19 Said chapter is further amended by striking paragraph (5) of subsection (e) of Code Section
 20 15-18-19, relating to state paid personnel employed by district attorneys, and inserting in its
 21 place the following:

22 "(5) The compensation of state paid personnel appointed pursuant to this article shall be
 23 paid in equal installments by the ~~Department of Administrative Services~~ Prosecuting
 24 Attorneys' Council of the State of Georgia as provided by this subsection from funds
 25 appropriated for such purpose. The council may, ~~with the consent of the Department of~~
 26 ~~Administrative Services~~, authorize employees compensated pursuant to this Code section
 27 to participate in voluntary salary deductions as provided by Article 3 of Chapter 7 of Title
 28 45."

29 SECTION 5.

30 Said chapter is further amended by striking Code Section 15-18-20.1, relating to additional
 31 personnel for district attorneys' offices, and inserting in its place the following:

32 "15-18-20.1.

33 Notwithstanding any other provision of law, the governing authority of any county or
 34 municipality within the judicial circuit which provides additional personnel for the office
 35 of district attorney may contract with the ~~Department of Administrative Services~~

1 Prosecuting Attorneys' Council of the State of Georgia to provide such additional
 2 personnel in the same manner as is provided for state paid personnel in this article. Any
 3 such personnel shall be considered state employees and shall be entitled to the same fringe
 4 benefits as other state paid personnel employed by the district attorney pursuant to this
 5 article. The governing authority of such county or municipality shall transfer to the
 6 ~~department~~ Prosecuting Attorneys' Council of the State of Georgia such funds as may be
 7 necessary to cover the compensation, benefits, travel, and other expenses for such
 8 personnel."

9 SECTION 6.

10 Said chapter is further amended by adding at the end of Code Section 15-18-40, relating to
 11 the establishment, purpose, and function of the Prosecuting Attorneys' Council of the State
 12 of Georgia, a new subsection (d) to read as follows:

13 "(d)(1) Effective July 1, 2001, all those ministerial functions of the Department of
 14 Administrative Services relating to the payment of salaries, benefits, and expenses of
 15 district attorneys, personnel of district attorneys, and solicitors or solicitors-general of the
 16 state courts shall be transferred to and performed by the Prosecuting Attorneys' Council
 17 of the State of Georgia.

18 (2) Effective July 1, 2001, all personnel of the Department of Administrative Services
 19 whose duties relate solely and exclusively to the payment of salaries, benefits, and
 20 expenses of district attorneys, personnel of district attorneys, and solicitors or solicitors-
 21 general of the state courts are transferred to and shall become employees of the
 22 Prosecuting Attorneys' Council of the State of Georgia. Each employee transferred
 23 pursuant to this subsection shall be entitled to and shall retain all rights which he or she
 24 possessed as an employee of the Department of Administrative Services immediately
 25 prior to the transfer, including all rights of rank or grade, rights to vacation, sick pay, and
 26 leave, rights under any retirement or personnel plan, and any other rights under any law
 27 or administrative policy. This paragraph is not intended to create any new rights for any
 28 employee, but to continue only those rights in effect before the effective date of the
 29 transfer. It shall be the duty of the commissioner of administrative services to determine
 30 which employees of the department are to be transferred pursuant to this subsection.

31 (3) The Department of Administrative Services shall transfer all documents, records, and
 32 reports relating to the payment of such salaries, benefits, and expenses, together with all
 33 computer hardware, computer software, data, and technical manuals necessary for the
 34 assumption of such duties by the Prosecuting Attorneys' Council of the State of Georgia
 35 without any disruption in the payment of such salaries, benefits, or expenses. Effective
 36 July 1, 2001, all physical property which was purchased by the Department of

1 Administrative Services out of funds which were appropriated for the operation of the
 2 superior courts in order to carry out the duties assigned to the department or any of its
 3 divisions pursuant to Section 408 of the "Executive Reorganization Act of 1972,"
 4 approved April 6, 1972 (Ga. L. 1972, p. 1015), as amended, relative to district attorneys
 5 or as otherwise provided by law, shall be transferred to the Prosecuting Attorneys'
 6 Council of the State of Georgia in a manner to be mutually agreed upon by the
 7 commissioner of administrative services and the chairperson of the Prosecuting
 8 Attorneys' Council of the State of Georgia.

9 (4) The commissioner of administrative services is directed to make available without
 10 cost for a period not to exceed two fiscal years such technical assistance as may be
 11 requested by the Prosecuting Attorneys' Council of the State of Georgia or such persons
 12 or entities designated by the council to ensure that the transfer of said functions and
 13 personnel shall be accomplished without any disruption in the payment of salaries and
 14 expenses to district attorneys, personnel of district attorneys, and solicitors or solicitors-
 15 general of the state courts."

16 SECTION 7.

17 Chapter 11 of Title 19 of the Official Code of Georgia Annotated, relating to enforcement
 18 of the duty of support, is amended by striking Code Section 19-11-58, relating to the
 19 designation of the Department of Human Resources as the state information agency under
 20 the "Uniform Reciprocal Enforcement of Support Act," and inserting in its place the
 21 following:

22 "19-11-58.

23 The Department of Human Resources is designated as the state information agency under
 24 this article and it shall be its duty:

25 (1) To compile a list of the courts in this state having jurisdiction under this article and
 26 their addresses and to transmit the same to the state information agency of every other
 27 state which has adopted this article or a substantially similar act;

28 (2) To maintain a register of such lists received from other states and to transmit copies
 29 thereof, as soon as possible after receipt, to every court in this state having jurisdiction
 30 under this article;

31 (3) To approve as to form all orders for payment of the district attorneys' fees and
 32 forward same to the ~~commissioner of administrative services~~ Prosecuting Attorneys'
 33 Council of the State of Georgia for payment; and

34 (4) To furnish to the district attorneys necessary forms, information, and assistance in
 35 proceedings under this article."

1 (2) 'County authority' means the judge of the probate court or the board of county
2 commissioners or other tribunal, body, or officer having jurisdiction over the fiscal affairs
3 of the county.

4 (3) 'Custodian' means the director of the Office of Treasury and Fiscal Services or any
5 bank, savings association, or trust company that:

6 (A) Is organized and existing under the laws of this state, any other state, or the United
7 States;

8 (B) Has executed all forms required under this chapter or any rule adopted under this
9 chapter;

10 (C) Agrees to be subject to the jurisdiction of the courts of this state or of courts of the
11 United States which are located within this state for the purpose of any litigation arising
12 out of this chapter; and

13 (D) Has been approved by the director to act as a custodian;

14 and which holds a pool of collateral for public deposits established by a depository
15 pursuant to Code Section 45-8-13.

16 (4) 'Daily pool balance' means the daily balance of deposits of public funds held by a
17 depository which balance is secured by the pooled method as specified in paragraph (2)
18 of subsection (b) of Code Section 45-8-13. Insured deposits and deposits of public funds
19 for which no collateral is required under subsection (b) or (d) of Code Section 45-8-12
20 or special deposits and operating funds for which collateral has been duly waived
21 pursuant to subsection (b) of Code Section 45-8-11 or paragraph (3) of Code Section
22 50-17-53 shall be excluded from the balance of deposits of public funds for purposes of
23 determining the daily pool balance.

24 (5) 'Default' includes, without limitation, the failure or refusal of a public depository to
25 pay any check or warrant drawn upon sufficient and collected funds by any public
26 depositor or to return any deposit on demand or at maturity together with interest as
27 agreed; the issuance of an order by any supervisory authority restraining such depository
28 from making payments of deposit liabilities; or the appointment of a receiver for such
29 depository.

30 (6) 'Depository' means any bank designated, named, or appointed from time to time:

31 (A) By the State Depository Board as qualified to serve as a depository of state funds
32 pursuant to Code Section 50-17-50;

33 (B) By county authorities or others as depositories for county and other public funds
34 pursuant to Code Section 45-8-14; or

35 (C) By collecting officers and officers holding public funds as a depository for public
36 funds pursuant to Code Section 45-8-11.

37 (7) 'Director' means the director of the Office of Treasury and Fiscal Services.

1 (8) 'Officer to hold public funds' means not only the director of the Office of Treasury
 2 and Fiscal Services, municipality or county treasurers, the State School Superintendent,
 3 municipality or county school superintendents, and treasurers of school districts, but also
 4 every other person, by whatever name or title called, who shall be either generally or
 5 specially elected, appointed, or employed with the duty, in whole or in part, to receive,
 6 hold, or disburse any public money or revenue on behalf of the state or any of its political
 7 subdivisions or on behalf of any board, commission, bureau, or department. Such term
 8 shall also include the Council of Superior Court Judges of Georgia and the Prosecuting
 9 Attorneys' Council of the State of Georgia and such officers, employees, or agents as
 10 they may authorize to hold public funds, and this chapter shall be fully applicable to such
 11 councils and such officers, employees, and agents.

12 (9) 'Proper authority' means the officer, board, commission, or other tribunal or body
 13 having the jurisdiction to act in the particular matter.

14 (10) 'Public body' means not only the state, municipalities, counties, school districts,
 15 drainage districts, and other districts created for special purposes, but also every other
 16 political subdivision of the state and every board, bureau, commission, and department
 17 of the state or any subdivision thereof, as the context may require.

18 (11) 'State authority' means the officer or officers or board, bureau, commission, or other
 19 person or persons who, in their official capacity, shall have, according to the laws of this
 20 state, the duty or jurisdiction to act on behalf of the state in the particular matter."

21 SECTION 11.

22 Said title is further amended by striking Code Section 45-9-3, relating to insuring and
 23 indemnification of law enforcement personnel serving on temporary assignments, and
 24 inserting in its place the following:

25 "45-9-3.

26 (a) Law enforcement personnel who are participants in any program coordinated and
 27 administered by the Georgia Organized Crime Prevention Council, which program
 28 provides for the temporary assignment or loan of local law enforcement personnel to other
 29 local law enforcement agencies for the purpose of such law enforcement officers serving
 30 as undercover agents in criminal investigations or in any other manner or capacity assisting
 31 such local agencies in criminal investigations, may be provided protection against personal
 32 liability for damages sustained by third parties and arising out of the performance of such
 33 law enforcement personnel's duties while serving on such temporary assignment or loan.
 34 The commissioner of administrative services shall prescribe the terms and conditions under
 35 which such personnel may be covered by any liability insurance policy or contract of
 36 indemnity or other like or similar programs administered by the commissioner pursuant to

1 this article to provide such protection, ~~provided that persons employed by the district~~
 2 ~~attorneys of the state, irrespective of the source of the funds used to pay such persons, shall~~
 3 ~~be allowed to purchase policies of liability insurance and contracts of indemnity insurance~~
 4 ~~and for the purpose of this article shall be considered to be state employees.~~

5 (b) All personnel employed by the district attorneys of this state, irrespective of the source
 6 of funds used to pay such persons, shall be provided policies of liability insurance and
 7 contracts of indemnity insurance the same as other state employees and for the purpose of
 8 this article shall be considered to be state employees. Any costs associated with such
 9 coverage shall be paid out of such funds as may be appropriated for the operations of the
 10 district attorneys."

11 SECTION 12.

12 Said title is further amended by striking Code section 45-18-14, relating to deductions from
 13 compensation and benefit payments under the state employees' health insurance plan and the
 14 payment of contributions to the health insurance fund by departments, boards, and agencies
 15 of the state, and inserting in its place the following:

16 "45-18-14.

17 During any period in which an employee is covered under this article prior to the date of
 18 his or her retirement, there shall be withheld from each salary payment or other
 19 compensation of such employee, as his or her share of the cost of coverage under this plan,
 20 such portion of the premium or subscription charges under the terms of any contract or
 21 contracts issued in accordance with this article as may be established by the board. During
 22 any month in which benefits are being paid by the Employees' Retirement System of
 23 Georgia to an individual so covered under this program, contributions in the amounts
 24 prescribed by the board shall be deducted from such payments with the consent of the
 25 recipient. The various departments, boards, and agencies of the executive and judicial
 26 branches of state government shall contribute to the health insurance fund such portions
 27 of the cost of such benefits as may be established by the board and the Governor as funds
 28 become available in each department, board, and agency, based on a percentage of the total
 29 outlay for personal services in addition to an amount to be established by the board to
 30 defray the cost of administration and the state's portion of the cost of benefits payable for
 31 annuitants. The legislative fiscal officer shall contribute to the health insurance fund as an
 32 employer payment for and on behalf of all members of the General Assembly and its
 33 administrative and clerical personnel. The Department of Administrative Services shall
 34 contribute to the fund as an employer payment for and on behalf of ~~district attorneys,~~
 35 ~~assistant district attorneys appointed pursuant to Code Section 15-18-14,~~ and secretaries
 36 and law clerks of the superior courts of the state ~~and secretaries employed by district~~

1 attorneys. The amount of such contributions shall be such portions of the costs of such
 2 benefits as may be established by the board as a percent of the total outlay of services
 3 rendered by members of the General Assembly; and its administrative and clerical
 4 personnel, ~~and the district attorneys of the superior courts of the state~~; and, in addition
 5 thereto, an amount to be established by the board shall be contributed to defray the costs
 6 of administration.

7 If an employee has been eligible for coverage under the state health insurance plan for a
 8 period of ten years and is discharged from employment and the discharge is under appeal
 9 to the State Personnel Board, such employee shall be entitled to continue coverage by
 10 paying the employee contribution under the health insurance plan until the State Personnel
 11 Board has rendered a decision or for a period of six months, whichever is less."

12 SECTION 13.

13 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
 14 amended by striking subsections (b), (c), and (d) of Code Section 47-2-260, relating to
 15 continuation in the Employees' Retirement System of Georgia of membership, rights, and
 16 benefits of judges of the superior courts and district attorneys, notices of elections, and
 17 contributions, and inserting in its place the following:

18 "(b) Within 30 days after appointment or election as a judge of the superior court or as a
 19 district attorney, any such person who elects to continue as a member of the retirement
 20 system shall notify the director of the Employees' Retirement System of Georgia and the
 21 ~~Department of Administrative Services~~ appropriate fiscal officer of that decision. Upon
 22 making such election and giving the required notice, a member who is subject to the
 23 provisions of this Code section shall not be required to become a member of or make
 24 contributions to the Georgia Judicial Retirement System created by Chapter 23 of this title.

25 (c) Employee contributions, including contributions for retirement allowances, survivors
 26 benefits under Code Section 47-2-128, and social security coverage, of members referred
 27 to in this Code section shall be deducted by the ~~Department of Administrative Services~~
 28 fiscal officers for the superior courts and the district attorneys from the compensation paid
 29 by the state to such members and remitted to the retirement system.

30 (d) The ~~Department of Administrative Services~~ is fiscal officers for the superior courts and
 31 the district attorneys are authorized and directed to pay from the funds appropriated or
 32 otherwise made available for the operation of the judicial branch of government of this
 33 state the required employer contributions, including contributions for retirement
 34 allowances, survivors benefits under Code Section 47-2-128, and social security coverage,
 35 and to remit those contributions to the retirement system."

1 System of Georgia with a commencement date of July 1, 1975. Any such secretary who is
 2 already a member of the retirement system by virtue of service with another employer shall
 3 be entitled to credit for all service rendered while an employee under the retirement system.
 4 All contributions required under this chapter shall be paid from funds appropriated or
 5 otherwise available for the operation of the ~~superior courts~~ judicial branch, and all such
 6 payments shall be in addition to the regular compensation provided by law for such
 7 secretaries."

8 **SECTION 16.**

9 Said title is further amended by striking subsection (d) of Code Section 47-2-265, relating
 10 to membership in the Employees' Retirement System of Georgia of district attorney
 11 investigators, and inserting in its place the following:

12 "(d) The state salaries paid to district attorney investigators who become members of the
 13 retirement system pursuant to this Code section shall be the basis for employee and
 14 employer contributions to the retirement system for such members. All employer
 15 contributions, including employee contributions made by the employer on behalf of
 16 members, which are required by this chapter for such members shall be paid from funds
 17 appropriated or otherwise made available for the operation of the ~~superior courts~~ district
 18 attorneys. The ~~Department of Administrative Services~~ shall deduct from the state salaries
 19 ~~payable to such members~~ the additional employee contributions required by this chapter
 20 shall be deducted from the state salaries payable to such members."

21 **SECTION 17.**

22 Said title is further amended by striking Code Section 47-2-267, relating to membership in
 23 the Employees' Retirement System of Georgia of employees of district attorneys, and
 24 inserting in its place the following:

25 "47-2-267.

26 Except as provided in Code Section 47-2-265, each full-time employee of a district
 27 attorney, which employee is compensated through funds appropriated by the General
 28 Assembly, shall be a member of this retirement system as a condition of employment. Any
 29 such employee who is already a member of this retirement system by virtue of service with
 30 another employer shall be entitled to credit for all service rendered while an employee
 31 under the retirement system. All contributions required under this chapter shall be paid
 32 from funds appropriated or otherwise available for the operation of the ~~superior courts~~
 33 district attorneys. The ~~Department of Administrative Services~~ fiscal officer shall deduct
 34 from the state salaries paid to such members the employee contributions required by this
 35 chapter."

