

The House Committee on Retirement offers the following substitute to HB 1036:

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 14 of Title 47 of the Official Code of Georgia Annotated, relating to the  
 2 Superior Court Clerks' Retirement Fund of Georgia, so as to provide that membership dues  
 3 in such fund shall be due on the first day of each month; to provide that no creditable service  
 4 shall be granted for months in which dues payments are in arrears; to provide that a certain  
 5 percentage of fines and forfeitures shall be due on the first day of each month; to provide a  
 6 penalty for late payment; to provide that a certain amount collected in certain civil actions  
 7 and for the recording of certain real estate instruments shall be due on the first day of the  
 8 month; to provide for a penalty for late payments; to provide for retirement benefits after  
 9 eight years of service; to provide for the calculation of service creditable for retirement; to  
 10 provide for spouses' benefits; to provide that the board of governors of such retirement fund  
 11 shall be authorized to provide for a surviving spouse's benefit in the event of the death of a  
 12 member who would be eligible to receive a retirement benefit but for reaching the age of 55;  
 13 to provide conditions under which such benefit may be granted; to provide conditions for an  
 14 effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Chapter 14 of Title 47 of the Official Code of Georgia Annotated, relating to the Superior  
 18 Court Clerks' Retirement Fund of Georgia, is amended by striking in its entirety Code  
 19 Section 47-14-40, relating to application for membership in the fund, payments by members  
 20 into the fund, and penalties for late payments, and inserting in lieu thereof the following:

21 "47-14-40.

22 (a) Any clerk, in order to participate in the benefits provided for in this chapter, shall make  
 23 application to the Superior Court Clerks' Retirement Fund of Georgia upon forms to be  
 24 furnished for that purpose by the board, giving such information as may be required by the  
 25 board. ~~He or she shall pay \$50.00 per month into the fund. All clerks who made application~~  
 26 ~~and are accepted for membership in the fund shall remit to the board, not later than the~~

1 ~~tenth day of each subsequent month, the amount due under this subsection. Membership~~  
 2 ~~dues shall be \$50.00 per month. The first payment shall be made at the time the application~~  
 3 ~~is submitted. Thereafter, all payments shall be due on the first day of each month but shall~~  
 4 ~~be deemed timely if received by the board on or before the tenth day of the month; provided,~~  
 5 ~~however, that for purposes of calculating late payment penalties the due date shall be the first~~  
 6 ~~day of the month.~~

7 (b) If any ~~payments~~ payment required to be made to the fund by a clerk ~~shall remain~~  
 8 ~~remains~~ unpaid 90 days from the date such payment ~~shall be~~ is due, there shall also be due  
 9 a late charge, which late charge shall be interest from the due date computed at 10 percent  
 10 per annum or the sum of \$5.00, whichever is the greater amount. In the event of such  
 11 delinquency, in order to be eligible to receive any benefits provided by this chapter, a clerk  
 12 must remit the late charge with such delinquent ~~payments~~ the late charge as provided for  
 13 ~~herein~~ payment.

14 (c) No creditable service shall be granted for any month for which dues are in arrears on  
 15 December 31, 2004. After such date, the board shall not accept payment of such dues in  
 16 arrears, and any claim to creditable service for any such month shall be forever forfeited.  
 17 Thereafter, no creditable service shall be granted for any month for which dues are in  
 18 arrears on the last day of the calendar quarter during which the dues were due. After the  
 19 last day of the quarter, the board shall not accept payment of such dues in arrears, and any  
 20 claim to creditable service for any such month shall be forever forfeited."

## 21 SECTION 2.

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

26 "47-14-50.

27 (a) As used in this Code section, the term 'collecting authority' shall include, without  
 28 limitation, any county or state officer, including any judicial officer or employee, or any  
 29 other person representing or acting on behalf of any court, the state, or a political  
 30 subdivision of the state who in his or her capacity collects or receives fines or forfeitures  
 31 as provided in this Code section.

32 (b) The sum of \$1.75 shall be paid to the board from each fine collected and each bond  
 33 forfeited and collected in any criminal or quasi-criminal case for violation of state or local  
 34 law, ordinance, or regulation if the case is tried in any court of this state in which the clerk  
 35 of such court is eligible for membership in this retirement fund. The collecting authority  
 36 shall pay such amounts to the board each quarter month or at such other times as the board

1 may provide. Such amounts shall be due on the first day of the month following the month  
 2 in which they were collected but shall be deemed timely if received by the board on or  
 3 before the fifteenth day of the month; provided, however, that for purposes of calculating  
 4 late payment penalties the due date shall be the first day of the month. It shall be the duty  
 5 of the collecting authority to keep accurate records of the amounts due the board. Such  
 6 records may be audited by the board at any time. The sums remitted to the board under this  
 7 Code section shall be used for the purposes provided for in this chapter.

8 ~~(b)~~(c) If the clerk or other collecting authority whose duty it is to collect and remit moneys  
 9 to the fund under subsection ~~(a)~~ (b) of this Code section shall fail to remit such moneys  
 10 within ~~60~~ 90 days of the date on which such remittal is due, such moneys shall be  
 11 delinquent; and there shall be imposed, in addition to the principal amount due, a specific  
 12 penalty in the amount of 5 percent of the principal amount per month for each month  
 13 during which the funds continue to be delinquent, provided that such penalty shall not  
 14 exceed a total of 25 percent of the principal due. In addition to such penalty, interest shall  
 15 be charged on the delinquent moneys at the rate of 6 percent per annum from the date such  
 16 moneys became delinquent until they are paid. All ~~After April 1, 1966,~~ all moneys which  
 17 have not been paid to the fund within ~~60~~ 90 days of the due date shall be delinquent. By  
 18 affirmative vote of all members, the board, upon the payment of the delinquent moneys  
 19 together with interest and for good cause shown, may waive the specific penalty otherwise  
 20 charged under this subsection."

### 21 SECTION 3.

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

26 "47-14-51.

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

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

1 (c) The clerks shall collect the fees provided for in subsections (a) and (b) of this Code  
 2 section and the fees so collected shall be remitted to the board on a ~~quarterly~~ monthly basis  
 3 or at such time as the board may provide. Such amounts shall be due on the first day of the  
 4 month following the month in which they were collected but shall be deemed timely if  
 5 received by the board on or before the fifteenth day of the month; provided, however, that  
 6 for purposes of calculating late payment penalties the due date shall be the first day of the  
 7 month. It shall be the duty of the clerks to keep accurate records of the amounts due the  
 8 board under this Code section and such records may be audited by the board at any time.  
 9 The sums remitted to the board under this Code section shall be used for the purposes  
 10 provided in this chapter.

11 (d) If the clerk or other collecting authority whose duty it is to collect and remit moneys  
 12 to the fund under subsection (a) of this Code section fails to remit such moneys within 90  
 13 days of the date on which such remittal is due, such moneys shall be delinquent; and there  
 14 shall be imposed, in addition to the principal amount due, a specific penalty in the amount  
 15 of 5 percent of the principal amount per month for each month during which the funds  
 16 continue to be delinquent, provided that such penalty shall not exceed a total of 25 percent  
 17 of the principal due. In addition to such penalty, interest shall be charged on the delinquent  
 18 moneys at the rate of 6 percent per annum from the date such moneys became delinquent  
 19 until they are paid. All moneys which have not been paid to the fund within 90 days of the  
 20 due date shall be delinquent. By affirmative vote of all members, the board, upon the  
 21 payment of the delinquent moneys together with interest and for good cause shown, may  
 22 waive the specific penalty otherwise charged under this subsection."

#### 23 SECTION 4.

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

27 "47-14-70.

28 (a) A member with at least 20 years of service shall receive retirement benefits of  
 29 \$1,700.00 per month upon retirement, provided that at least 12 years of such service shall  
 30 have been served as a clerk, and the member must have served continuously as a clerk for  
 31 the four years immediately preceding the member's retirement. Subject to the restrictions  
 32 set out in this subsection, in computing such service, a member also may include service  
 33 as a deputy clerk of the superior court and not more than four years of service as a member  
 34 of the armed forces of the United States on active duty during any period of time in which  
 35 the United States was engaged in an armed conflict, regardless of whether a state of war  
 36 had been declared by Congress, provided that no service as a member of the armed forces

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

11 (b) If a member is eligible to retire under subsection (a) of this Code section but does not  
12 retire and continues to serve as clerk, he or she shall be entitled to receive, upon retirement,  
13 the amount to which he or she would have been entitled under subsection (a) of this Code  
14 section; and, in addition, for each year of service beyond the required 20 years, he or she  
15 shall receive an additional 5 percent of the amount he or she would be entitled to under  
16 subsection (a) of this Code section.

17 ~~(c) In lieu of the retirement benefits provided in subsections (a) and (b) of this Code~~  
18 ~~section, a member, upon retirement, may elect to receive 90 percent of the benefits the~~  
19 ~~member is entitled to receive under subsections (a) and (b) of this Code section during the~~  
20 ~~remainder of the member's life; and, after the member's death, the member's surviving~~  
21 ~~spouse shall receive a monthly sum during the lifetime of the surviving spouse equal to 50~~  
22 ~~percent of the amount which the member would have received had the member elected the~~  
23 ~~full benefits provided under subsections (a) and (b) of this Code section. In order to be~~  
24 ~~eligible for such benefits, the surviving spouse must have been married to the member for~~  
25 ~~at least six years immediately preceding the member's death. Such benefits shall not~~  
26 ~~commence until after the surviving spouse reaches 55 years of age.~~

27 ~~(d)~~(c) A member with at least 16 years of service either as a clerk or deputy clerk shall  
28 receive retirement benefits of \$1,360.00 per month upon retirement, provided that at least  
29 eight years of such service shall have been served as a clerk, and the member must have  
30 served continuously as a clerk for the four years immediately preceding the member's  
31 retirement. No other type of service shall be counted toward such retirement benefits.

32 ~~(e)~~(d) A member with at least 12 years of service either as a clerk or deputy clerk shall  
33 receive retirement benefits of \$1,020.00 per month upon retirement, provided that at least  
34 eight years of such service shall have been served as a clerk, and the member must have  
35 served continuously as a clerk for the four years immediately preceding the member's  
36 retirement. No other type of service shall be counted toward such retirement benefits.

1 (e) A member with at least eight years of service as a clerk shall receive retirement  
 2 benefits of \$680.00 per month upon retirement; provided, however, that the member must  
 3 have served continuously as a clerk for the four years immediately preceding the member's  
 4 retirement. No other type of service shall be counted toward such retirement benefits.

5 (f) Any other provisions of this chapter to the contrary notwithstanding, all members who  
 6 retire on or after April 1, 1976, for whatever reason and who otherwise meet the  
 7 requirements for retirement benefits under either subsection (c), (d), or (e) of this Code  
 8 section shall be entitled to an additional benefit based on service in excess of the minimum  
 9 required for such retirement benefits, provided that such service is of the kind for which  
 10 credit toward retirement benefits would be given under subsection (c), (d), or (e) of this  
 11 Code section. The amount of the retirement benefit shall be based on the ratio that the total  
 12 number of years served bears to the minimum number of years required for benefits under  
 13 subsection (c), (d), or (e) of this Code section, as appropriate. For example, the following  
 14 table is illustrative of the additional benefits computation under this Code section:

<u>Years of Service at Retirement</u>	<u>Benefits Received</u>
<u>9</u>	<u>Nine-eighths of the benefits provided in subsection</u> <u>(e) of this Code section</u>
<u>10</u>	<u>Ten-eighths of the benefits provided in subsection</u> <u>(e) of this Code section</u>
<u>11</u>	<u>Eleven-eighths of the benefits provided in</u> <u>subsection (e) of this Code section</u>
13	Thirteen-twelfths of the benefits provided in subsection <del>(e)</del> <u>(d)</u> of this Code section
14	Fourteen-twelfths of the benefits provided in subsection <del>(e)</del> <u>(d)</u> of this Code section
15	Fifteen-twelfths of the benefits provided in subsection <del>(e)</del> <u>(d)</u> of this Code section
17	Seventeen-sixteenths of the benefits provided in subsection <del>(d)</del> <u>(c)</u> of this Code section
18	Eighteen-sixteenths of the benefits provided in subsection <del>(d)</del> <u>(c)</u> of this Code section
19	Nineteen-sixteenths of the benefits provided in subsection <del>(d)</del> <u>(c)</u> of this Code section

34 (g) In lieu of the retirement benefits provided in subsections (a) through (f) of this Code  
 35 section, a member, upon retirement, may elect to receive 90 percent of the benefits the  
 36 member is entitled to receive under subsections (a) through (f) of this Code section during

1 the remainder of the member's life; and, after the member's death, the member's surviving  
 2 spouse shall receive a monthly sum during the lifetime of the surviving spouse equal to 50  
 3 percent of the amount that the member would have received had the member elected the  
 4 full benefits provided under subsections (a) through (f) of this Code section. In order to be  
 5 eligible for such benefits, the surviving spouse must have been married to the member for  
 6 at least six years immediately preceding the member's death. Such benefits shall not  
 7 commence until after the surviving spouse reaches 55 years of age.

8 ~~(g)~~(h) No person shall receive credit toward the retirement benefits set forth in  
 9 subsections (a) and (b) of this Code section for any service performed ~~after February 15,~~  
 10 ~~1952~~, unless payment for the period covered by such service has been made to the board.

11 No person shall be eligible for the benefits provided in this Code section unless his or her  
 12 official duties have terminated and he or she files an application for benefits within 90  
 13 days, or as soon thereafter as possible, from the termination of his or her official duties.

14 (i) In calculating creditable service for retirement purposes, monthly service shall be  
 15 included in order to determine fractional years of service. A month in which 15 or more  
 16 days of creditable service have been performed by a member shall count as a full month  
 17 of service for the purposes of this subsection. A member who is entitled to receive the  
 18 retirement benefits provided in subsections (a) through (f) of this Code section and who has  
 19 completed any fractional year of service shall be entitled to the benefits set forth in  
 20 subsections (a) through (f) of this Code section in proportion to the fractional years of  
 21 service that the member has performed."

## 22 SECTION 5.

23 Said chapter is further amended by inserting immediately following Code Section 47-14-78  
 24 a new Code section to read as follows:

25 "47-14-79.

26 (a) Subject to the provisions of subsection (c) of this Code section, the board is authorized  
 27 to provide by rule or regulation for surviving spouses' benefits as provided in subsection  
 28 (b) of this Code section. Once granted, such benefits shall be irrevocable but shall be  
 29 subject to the provisions of Code Section 47-14-90.

30 (b) Subject to subsections (a) and (c) of this Code section, the board is authorized to  
 31 provide by rule or regulation that, in the event of the death of any clerk who has not retired  
 32 under any of the provisions of this chapter but who would be eligible to do so except for  
 33 not having attained the age of 55, whether or not such clerk has terminated his or her  
 34 official duties as clerk, the surviving spouse shall receive a monthly sum during his or her  
 35 lifetime equal to 50 percent of the amount such clerk would have received had he or she  
 36 retired under subsection (c) of Code Section 47-14-70. In order to receive such benefits,

1 any such spouse must be at least 55 years of age and have been married to such clerk for  
2 at least six years immediately preceding the death of the clerk.

3 (c) The board of trustees shall be authorized to provide for the benefits as stated in  
4 subsection (b) of this Code section only upon:

5 (1) The recommendation of the actuary for the board;

6 (2) The maintenance of the actuarial soundness of the fund in accordance with the  
7 standards provided in Code Section 47-20-10 or such higher standards as may be adopted  
8 by the board; and

9 (3) Such other factors as the board deems relevant."

10 **SECTION 6.**

11 This Act shall become effective on July 1, 2004, only if it is determined to have been  
12 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia  
13 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not  
14 become effective and shall be automatically repealed in its entirety on July 1, 2004, as  
15 required by subsection (a) of Code Section 47-20-50.

16 **SECTION 7.**

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