

House Bill 607 (COMMITTEE SUBSTITUTE)

By: Representative Cummings of the 19th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and
2 pensions, so as to provide for the Georgia Superior Court Clerks' Cooperative Authority to
3 act as the collecting and remitting agent for certain court fees, fines, and forfeitures which
4 are remitted to certain state retirement and pension plans; to provide for other matters related
5 to the foregoing; to provide for a contingent effective date; to repeal conflicting laws; and
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
10 amended by striking Code Sections 47-11-50 and 47-11-51, relating to remittance of certain
11 moneys from probate court fees, fines, and forfeitures to the Judges of the Probate Courts
12 Retirement Fund of Georgia, and inserting in their place new Code sections to read as
13 follows:

14 "47-11-50.

15 (a)(1) The judges of the probate courts shall withhold the following amounts and ~~pay the~~
16 ~~same to the board~~ by the ~~twentieth~~ last day of the month following the month in which
17 such fees were collected pay such amounts to the Superior Court Clerks' Cooperative
18 Authority for remittance to the board, irrespective of whether such collecting judge of the
19 probate court is now or may hereafter be compensated from fees collected or by a salary,
20 or both:

21 (A) Twenty percent of all fees collected by any and all judges of the probate courts for
22 any service rendered as such in taking applications for marriage licenses, issuing and
23 recording such marriage licenses, and filing such applications and marriage licenses
24 with the Department of Human Resources;

25 (B) Two dollars of each civil filing fee; and

1 (C) One dollar of the fee paid for each application for a license to carry a pistol or
2 revolver.

3 (2) It shall be the duty of each judge of the probate court to keep accurate records of all
4 such fees collected, and such records may be audited by the board or the authority at any
5 time. The sums remitted to the board under this Code section shall be used to provide
6 adjustments of the compensation of the several judges of the probate courts by making
7 retirement benefits available to such judges of the probate courts and to pay the costs of
8 administration incurred by the board.

9 (b) Each judge of a probate court shall submit with the moneys due under subsection (a)
10 of this Code section a sworn statement of the number and nature of transactions for which
11 such moneys are required to be paid and the amount due. Such sworn statement shall be
12 on a form furnished to each judge of a probate court by the ~~board~~ authority.

13 (c) Moneys not paid when due shall bear interest at the rate of 7 percent per annum.

14 (d) Moneys not paid within 60 days of the date they are due shall be delinquent. There
15 shall be imposed on delinquent funds a specific penalty in the amount of 5 percent of the
16 principal amount delinquent per month for each month such moneys remain delinquent; but
17 such specific penalty shall not exceed 25 percent. Such specific penalty shall be in addition
18 to the 7 percent per annum interest charged on overdue moneys. ~~All funds due on or before~~
19 ~~July 10, 1980, shall be delinquent 60 days after such date.~~

20 (e) For failure to file the written report of transactions and amount due when due, there
21 shall be imposed a specific penalty in the amount of \$5.00 for each month said report
22 remains overdue; but such specific penalty shall not exceed \$50.00 for failure to file any
23 one report.

24 (f) By affirmative vote of all the members, the board, upon the payment of all overdue
25 funds and interest and for good cause shown, may waive the specific penalties provided by
26 subsections (d) and (e) of this Code section.

27 47-11-51.

28 (a) In every criminal and quasi-criminal case for violating state statutes or traffic laws,
29 which case is before a judge of the probate court and in which case a fine is collected or
30 a bond is forfeited, a sum based upon the scale set out below for each case shall be
31 collected by the judge or other collecting authority. Such bond or fine shall be construed
32 to include costs. Such sums shall be paid upon the following scale:

33 For any fine or bond forfeiture of more than \$4.00, but not more than \$25.00 . . . \$ 1.00

34 For any fine or bond forfeiture of more than \$25.00, but not more than \$50.00 . . . 1.50

35 For any fine or bond forfeiture of more than \$50.00 but not more than \$100.00 . . . 2.00

1 For any fine or bond forfeiture of more than \$100.00 2.50

2 (b) The sum provided for shall be paid to the Georgia Superior Court Clerks' Cooperative
3 Authority for remittance to the board before the payment of any cost or any claims
4 whatsoever against such fine or forfeiture. It is made the duty of the judge of the probate
5 court or other authority collecting the money to keep accurate records of the amount due
6 ~~the board~~ so that the same may be audited or inspected at any time by the authority or by
7 any representative of the board at the direction of the board. Sums remitted to the board
8 under this Code section shall be used as provided for elsewhere in this chapter.

9 (c)(1) All moneys required to be paid to the board by this Code section shall be ~~due on~~
10 remitted to the authority by the ~~twentieth last~~ day of the month after collection. Each
11 judge of the probate court or other collecting authority shall pay such moneys to the
12 ~~board~~ authority no later than such due date and shall submit with such moneys a sworn
13 statement of the number and nature of transactions for which such moneys are required
14 to be paid and the amount due. Such sworn statement shall be on a form furnished to each
15 judge of the probate court by the ~~board~~ authority.

16 (2) Moneys not paid when due shall bear interest at the rate of 7 percent per annum.

17 (3) Moneys not paid within 60 days of the date they are due shall be delinquent. There
18 shall be imposed on delinquent funds a specific penalty in the amount of 5 percent of the
19 principal amount delinquent per month for each month such moneys remain delinquent;
20 but such specific penalty shall not exceed 25 percent of the principal amount due. Such
21 specific penalty shall be in addition to the 7 percent per annum interest charged on
22 overdue moneys. ~~All funds due on or before July 10, 1980, shall be delinquent 60 days~~
23 ~~after such date.~~

24 (4) For failure to file the written report of transactions and amount due when due, there
25 shall be imposed a specific penalty in the amount of \$5.00 for each month such report
26 remains overdue; but such specific penalty shall not exceed \$50.00 for failure to file any
27 one report.

28 (5) By affirmative vote of all the members, the board, upon the payment of all overdue
29 funds and interest and for good cause shown, may waive the specific penalties provided
30 by paragraphs (3) and (4) of this subsection."

31 **SECTION 2.**

32 Said title is further amended by striking Code Sections 47-14-50 and 47-14-51, relating to
33 remittance of certain moneys from fees, fines, and forfeitures to the Superior Court Clerks'
34 Retirement Fund of Georgia, and inserting in their place new Code sections to read as
35 follows:

1 "47-14-50.

2 (a) The sum of \$1.75 shall be paid to the Georgia Superior Court Clerks' Cooperative
 3 Authority for remittance to the board from each fine collected and each bond forfeited and
 4 collected in any criminal or quasi-criminal case for violation of state law if the case is tried
 5 in any court of this state in which the clerk of such court is eligible for membership in this
 6 retirement fund. The collecting authority shall pay such amounts to the ~~board each quarter~~
 7 ~~or at such other times as the board may provide~~ Georgia Superior Court Clerks'
 8 Cooperative Authority by the last day of the month following the month of collection. It
 9 shall be the duty of the collecting authority to keep accurate records of the amounts due ~~the~~
 10 ~~board.~~ Such records may be audited by the board or the Georgia Superior Court Clerks'
 11 Cooperative Authority at any time. The sums remitted to the board under this Code section
 12 shall be used for the purposes provided for in this chapter.

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

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¢ shall be charged and collected in
 35 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 by the last day of the month following
 3 the month of collection to the ~~board on a quarterly basis or at such time as the board may~~
 4 ~~provide~~ Georgia Superior Court Clerks' Cooperative Authority for remittance to the board.
 5 It shall be the duty of the clerks to keep accurate records of the amounts due ~~the board~~
 6 under this Code section and such records may be audited by the board or the authority at
 7 any time. The sums remitted to the board under this Code section shall be used for the
 8 purposes provided in this chapter."

9 SECTION 3.

10 Said title is further amended by striking Code Sections 47-16-60 and 47-16-61, relating to
 11 remittance of certain moneys from fees, fines, and forfeitures to the Sheriffs' Retirement
 12 Fund of Georgia, and inserting in their place new Code sections to read as follows:

13 "47-16-60.

14 (a) The sum of \$2.00 shall be allocated to the board from each fine collected and each
 15 bond forfeited and collected in any criminal or quasi-criminal case for violation of state
 16 law, including traffic laws, which case is before any court of this state in which a sheriff
 17 of a superior court or a duly authorized deputy of such sheriff acts as sheriff to such court
 18 by virtue of his or her office, provided that such fine or bond, which shall be construed to
 19 include costs, is at least \$5.00. The clerk or other collecting authority for the court in which
 20 the fine or bond is collected shall pay such amounts ~~to the secretary-treasurer each quarter~~
 21 ~~or at such other times as the board may provide~~ by the last day of the month following the
 22 month of collection to the Georgia Superior Court Clerks' Cooperative Authority for
 23 remittance to the secretary-treasurer of the board. These sums shall be paid ~~to the~~
 24 ~~secretary-treasurer~~ before the payment of any costs or any claim whatsoever against such
 25 fine or forfeiture, provided that this shall not be construed to repeal any existing priorities
 26 established under the laws of this state. It shall be the duty of the clerk or other collecting
 27 authority for each court to keep accurate records of the amounts due ~~to the board~~ and to
 28 remit the amounts due promptly. Such records may be audited by the board or the Georgia
 29 Superior Court Clerks' Cooperative Authority at any time. The sums remitted to the board
 30 under this Code section shall be used only for the purposes provided for in this chapter.

31 (b) If the person or authority whose duty it is to collect and remit moneys ~~to the~~
 32 ~~secretary-treasurer~~ under subsection (a) of this Code section shall fail to remit such moneys
 33 within 60 days of the date on which such remittal is due, such moneys shall be delinquent;
 34 and there shall be imposed, in addition to the principal amount due, a specific penalty in
 35 the amount of 5 percent of the principal amount per month for each month during which

1 the moneys continue to be delinquent, provided that such penalty shall not exceed a total
 2 of 25 percent of the principal due. In addition to such penalty, interest shall be charged on
 3 the delinquent moneys at the rate of 6 percent per annum from the date such moneys
 4 become delinquent until they are paid. ~~All moneys due on or before May 1, 1968, and not~~
 5 ~~paid shall be delinquent after the expiration of 60 days from that date.~~ By affirmative vote
 6 of all the members, the board, upon the payment of the delinquent moneys together with
 7 interest and for good cause shown, may waive the specific penalty otherwise charged under
 8 this subsection.

9 47-16-61.

10 (a) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in
 11 each civil action, case, or proceeding, including, without limiting the generality of the
 12 foregoing, all adoptions, charters, certiorari, applications by personal representative for
 13 leave to sell or invest, trade name registrations, applications for change of name, and all
 14 other proceedings of a civil nature filed in the superior courts. The clerks of the superior
 15 courts shall collect such fees, and the fees so collected shall be remitted ~~to the board~~
 16 ~~quarterly or at such other time as the board may provide~~ by the last day of the month
 17 following the month of collection to the Georgia Superior Court Clerks' Cooperative for
 18 remittance to the secretary-treasurer of the board. It shall be the duty of the clerks of the
 19 superior courts to keep accurate records of the amounts due the board under this subsection,
 20 and such records may be audited by the board or the authority at any time. The sums
 21 remitted to the board under this subsection shall be used only for the purposes provided for
 22 in this chapter.

23 (b) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in
 24 each civil action, case, or proceeding, including, without limiting the generality of the
 25 foregoing, all adoptions, charters, certiorari, applications by personal representative for
 26 leave to sell or invest, trade name registrations, applications for change of name, and all
 27 other proceedings of a civil nature filed in the state courts and magistrate courts of this state
 28 in which the sheriff of the superior court also fulfills the function as sheriff of such inferior
 29 court. The clerks of such state courts and magistrate courts shall collect such fees, and the
 30 fees so collected shall be remitted ~~to the board quarterly or at such other time as the board~~
 31 ~~may provide~~ by the last day of the month following the month of collection to the Georgia
 32 Superior Court Clerks' Cooperative Authority for remittance to the secretary-treasurer of
 33 the board. It shall be the duty of the clerks of such state courts and magistrate courts to
 34 keep accurate records of the amounts due ~~the board~~ under this subsection, and such records

1 may be audited by the board or the authority at any time. The sums remitted to the board
2 under this subsection shall be used only for the purposes provided for in this chapter.

3 (c) If the person or authority whose duty it is to collect and remit moneys ~~to the~~
4 ~~secretary-treasurer~~ under subsection (a) or subsection (b) of this Code section shall fail to
5 remit such moneys within 60 days of the date on which such remittal is due, such moneys
6 shall be delinquent; and there shall be imposed, in addition to the principal amount due, a
7 specific penalty in the amount of 5 percent of the principal amount per month for each
8 month during which the moneys continue to be delinquent, provided that such penalty shall
9 not exceed a total of 25 percent of the principal due. In addition to such penalty, interest
10 shall be charged on the delinquent moneys at the rate of 6 percent per annum from the date
11 such moneys become delinquent until they are paid. By affirmative vote of all the
12 members, the board upon the payment of the delinquent moneys, together with interest, for
13 good cause shown may waive the specific penalty otherwise charged under this
14 subsection."

15 SECTION 4.

16 Said title is further amended by striking Code Section 47-17-60, relating to remittance of
17 certain moneys from fines and forfeitures to the Peace Officers' Annuity and Benefit Fund,
18 and inserting in its place a new Code section to read as follows:

19 "47-17-60.

20 (a) A portion of each fine collected and each bond forfeited and collected in any criminal
21 or quasi-criminal case for violation of state statutes, county ordinances, or municipal
22 ordinances, which case is before any court or tribunal in this state, shall be paid to the
23 Georgia Superior Court Clerks' Cooperative Authority for remittance to the
24 secretary-treasurer according to the following schedule:

25 (1) Three dollars for any fine or bond forfeiture of more than \$4.00, but not more than
26 \$25.00;

27 (2) Four dollars for any fine or bond forfeiture of more than \$25.00, but not more than
28 \$50.00;

29 (3) Five dollars for any fine or bond forfeiture of more than \$50.00, but not more than
30 \$100.00;

31 (4) Five percent of any fine or bond forfeiture of more than \$100.00.

32 For purposes of determining amounts to be paid to the ~~secretary-treasurer~~ authority, the
33 amount of the fine or bond collected shall be deemed to include costs. The amounts
34 provided for shall be paid ~~to the secretary-treasurer~~ before the payment of any costs or any

1 claim whatsoever against such fine or forfeiture. The collecting authority shall pay such
 2 amounts to the ~~secretary-treasurer on the first~~ Georgia Superior Court Clerks' Cooperative
 3 Authority by the last day of the month following that in which they were collected ~~or at~~
 4 ~~such other time as the board may provide~~. With such payment there shall be filed an
 5 acceptable form which shows the number of cases in each of the above categories and the
 6 amounts due in each category. It shall be the duty of the collecting authority to keep
 7 accurate records of the amounts due ~~the board~~ so that the records may be audited or
 8 inspected at any time the Georgia Superior Court Clerks' Cooperative Authority or by any
 9 representative of the board under its direction. Sums remitted to the secretary-treasurer
 10 under this Code section shall be used as provided for elsewhere in this chapter.

11 (b) If the collecting authority fails to remit such amounts with an acceptable form properly
 12 filled out within 60 days of the date on which such remittal is due, the same shall be
 13 delinquent, and there shall be imposed, in addition to the principal amount due, a specific
 14 penalty in the amount of 5 percent of the principal amount per month for each month
 15 during which the funds continue to be delinquent, provided that such penalty shall not
 16 exceed 25 percent of the principal due. In addition to such penalty, interest shall be charged
 17 on delinquent amounts at the rate of 6 percent per annum from the date the funds become
 18 delinquent until they are paid. ~~All funds due on or before April 1, 1966, and not paid shall~~
 19 ~~be delinquent after the expiration of 60 days from that date~~. By affirmative vote of all
 20 members, the board, upon the payment of the delinquent funds together with interest and
 21 for good cause shown, may waive the specific penalty otherwise charged under this
 22 subsection."

23 SECTION 5.

24 This Act shall become effective on July 1, 2004, only if HB 869 which provides for the
 25 Georgia Superior Court Clerks' Cooperative Authority to act as a collecting and remitting
 26 agent for certain court costs, fees, fines, and forfeitures also become law and becomes
 27 effective on such date. If HB 869 does not so become law and become effective on July 1,
 28 2004, this Act shall not take effect.

29 SECTION 6.

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