

House Bill 540

By: Representative Mumford of the 95th

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 that the board of governors of
9 such retirement fund shall be authorized to provide for a surviving spouse's benefit in the
10 event of the death of a member who would be eligible to receive a retirement benefit but for
11 reaching the age of 55; to provide conditions under which such benefit may be granted; to
12 repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 style="text-align:center">**SECTION 1.**

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

19 "47-14-40.

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

1 is submitted. Thereafter, all payments shall be due on the first day of each month but shall
 2 be deemed timely if received by the board on or before the tenth day of the month;
 3 provided, however, that for purposes of calculating late payment penalties the due date
 4 shall be the first day of the month.

5 (b) If any ~~payments~~ payment required to be made to the fund by a clerk ~~shall remain~~
 6 remains unpaid ~~90 days~~ two calendar months from the date such payment ~~shall be~~ is due,
 7 there shall also be due a late charge, ~~which late charge shall be~~ a penalty of 25 percent of
 8 the amount owed, and interest from the due date computed at 10 percent per annum or the
 9 sum of \$5.00, whichever is the greater amount. In the event of such delinquency, in order
 10 to be eligible to receive any benefits provided by this chapter, a clerk must remit the late
 11 charge within the next calendar month with such delinquent ~~payments~~ the late charge as
 12 provided for herein payment.

13 (c) No creditable service shall be granted for any month for which dues are in arrears after
 14 January 10, 2006. After such date, the board shall not accept payment of such dues in
 15 arrears, and any claim to creditable service for any such month shall be forever forfeited.
 16 Thereafter, no creditable service shall be granted for any month for which dues are in
 17 arrears on January 10 of each year. After January 10 of each year, the board shall not
 18 accept payment of such dues in arrears, and any claim to creditable service for any such
 19 month shall be forever forfeited."

20 SECTION 2.

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

25 "47-14-50.

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

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

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

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

20 SECTION 3.

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

25 "47-14-51.

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

33 (b) In addition to all other legal costs, the sum of ~~50¢~~ cents shall be charged and collected
 34 in addition to any other fees or costs for the processing of all instruments pertaining to real
 35 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 amended by inserting immediately following Code Section 47-14-78
 25 a new Code section to read as follows:

26 "47-14-79.

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

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

1 retired under subsection (c) of Code Section 47-14-70. In order to receive such benefits,
2 any such spouse must be at least 55 years of age and have been married to such clerk for
3 at least six years immediately preceding the death of the clerk.

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

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

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

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

11 **SECTION 5.**

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