

The House Committee on Judiciary offers the following substitute to SB 396:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to  
2 remove all functions of the commissioner of administrative services and the Department of  
3 Administrative Services and transfer such functions; to transfer administrative and salary  
4 paying and travel expense reimbursement functions for superior court judges and court  
5 reporters to The Council of Superior Court Judges of Georgia; to transfer administrative and  
6 salary paying functions for district attorneys and their staff to the Prosecuting Attorneys'  
7 Council of the State of Georgia; to remove the commissioner of administrative services from  
8 the Georgia Courts Automation Commission; to repeal provisions relating to alternate hiring  
9 procedure of secretaries; to provide for members of the Prosecuting Attorneys' Council of  
10 the State of Georgia to be removed upon the vote of the members of such council; to repeal  
11 provisions that prohibit the Prosecuting Attorneys' Council of the State of Georgia from  
12 employing certain retired personnel; to expand the powers and duties of attorneys and  
13 investigators employed by the Prosecuting Attorneys' Council of the State of Georgia; to  
14 provide that such investigators shall meet the requirements of Chapter 8 of Title 35; to amend  
15 Code Section 16-11-130 of the Official Code of Georgia Annotated, relating to exemptions  
16 from Code Sections 16-11-126 through 16-11-128, so as to provide that investigators  
17 employed by the Prosecuting Attorneys' Council of the State of Georgia and attorneys and  
18 investigators who are retired from the Prosecuting Attorneys' Council of the State of Georgia  
19 shall be exempt from certain state weapons requirements; to amend Article 2 of Chapter 11  
20 of Title 19 of the Official Code of Georgia Annotated, relating to the 'Uniform Reciprocal  
21 Enforcement of Support Act,' so as to correct cross-references; to amend Title 45 of the  
22 Official Code of Georgia Annotated, relating to public officers and employees, so as to  
23 provide that requests for new, expanded, relocated, or renovated rental real estate space be  
24 reviewed by the State Properties Commission in lieu of the Department of Administrative  
25 Services; to revise provisions relating to employee's health insurance; to amend Code  
26 Section 50-5B-2 of the Official Code of Georgia Annotated, relating to administrative units,  
27 directors, and employees of the State Accounting Office, so as to provide that The Council  
28 of Superior Court Judges of Georgia and the Prosecuting Attorneys' Council of the State of

1 Georgia shall be separate units within the State Accounting Office; to provide for related  
2 matters; to repeal conflicting laws; and for other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **SECTION 1.**

5 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
6 Code Section 15-5-60, relating to contracts with state agencies for administrative functions,  
7 services, and equipment, as follows:

8 "15-5-60.

9 The Council of Superior Court Judges of Georgia shall be authorized to ~~contract with the~~  
10 ~~Department of Administrative Services or other agency of state government, from provide~~  
11 for or contract for administrative functions, services, and equipment necessary for the  
12 fulfillment of the responsibilities of the superior courts with funds appropriated or  
13 otherwise available for the operation of the superior courts of the state, ~~to provide such~~  
14 ~~administrative functions, services, and equipment necessary for the fulfillment of the~~  
15 ~~responsibilities of the superior courts."~~

16 **SECTION 2.**

17 Said title is further amended by revising subsection (a) of Code Section 15-5-81, relating to  
18 the advisory council to the Georgia Courts Automation Commission, as follows:

19 "(a) There shall be an advisory council to the Georgia Courts Automation Commission.  
20 The advisory council shall consist of: ~~the commissioner of administrative services or the~~  
21 ~~commissioner's designee,~~ the director of the Georgia Bureau of Investigation or the  
22 director's designee, the commissioner of corrections or the commissioner's designee, the  
23 commissioner of public safety or the commissioner's designee, the chairman of the State  
24 Board of Pardons and Paroles or the chairman's designee, the director of the  
25 Administrative Office of the Courts or the director's designee, the director of the Criminal  
26 Justice Coordinating Council or the director's designee, the director of the Children and  
27 Youth Coordinating Council or the director's designee, and the executive director of the  
28 Georgia Technology Authority or the executive director's designee."

29 **SECTION 3.**

30 Said title is further amended by revising subsections (a) and (b) of Code Section 15-6-29,  
31 relating to the salary of superior court judges, as follows:

1 "(a) The annual salary of the judges of the superior courts shall be as provided in Code  
2 Section 45-7-4. The salary shall be paid by ~~the Department of Administrative Services~~ The  
3 Council of Superior Court Judges of Georgia in 12 equal monthly installments.

4 (b) The salary so fixed shall be the total compensation to be paid by the state to the  
5 superior court judges and shall be in lieu of any and all other amounts to be paid from ~~the~~  
6 ~~Department of Administrative Services~~ The Council of Superior Court Judges of Georgia,  
7 except as provided in Code Sections 15-6-30 and 15-6-32."

#### 8 SECTION 4.

9 Said title is further amended by revising subsection (d) of Code Section 15-6-30, relating to  
10 travel expenses of superior court judges, as follows:

11 "(d) The several judges of the superior courts shall, once a month, submit a detailed and  
12 certified statement of the items of expense, as authorized by this Code section, to the state  
13 auditor; and the state auditor is directed to audit each account and approve same for  
14 payment, if found correct, and to transmit the total amount to ~~the Department of~~  
15 ~~Administrative Services~~ The Council of Superior Court Judges of Georgia for payment  
16 from the funds available for the operation of the superior courts of this state. Senior judges  
17 of the superior courts shall, once a month, submit a detailed and certified statement of the  
18 items of expense, as authorized by Code Sections 47-8-64 and 47-23-100, to the state  
19 auditor; and the state auditor is directed to audit each account and approve same for  
20 payment, if found correct, and to transmit the total amount to ~~the Department of~~  
21 ~~Administrative Services~~ The Council of Superior Court Judges of Georgia for payment  
22 from the funds available for the operation of the superior courts of this state."

#### 23 SECTION 5.

24 Said title is further amended by revising Code Section 15-6-31, relating to contingent  
25 expense allowance, which is reserved, as follows:

26 "15-6-31.

27 Effective July 1, 2008, the ministerial functions of the commissioner of administrative  
28 services or of the Department of Administrative Services relating to the payment of  
29 salaries, benefits, and expenses of superior court judges, and other state paid personnel  
30 authorized by this chapter shall be transferred to and performed by The Council of Superior  
31 Court Judges of Georgia. ~~Reserved."~~

#### 32 SECTION 6.

33 Said title is further amended by revising subsections (a) and (d) of Code Section 15-14-6,  
34 relating to contingent expenses and travel expenses of court reporters, as follows:

1 "(a) ~~The Department of Administrative Services~~ Council of Superior Court Judges of  
 2 Georgia is authorized and directed to pay from the state treasury the sums specified in  
 3 subsection (b) of this Code section as contingent expense and travel allowance to each duly  
 4 appointed reporter for the superior courts in all judicial circuits of this state, such sum  
 5 being in addition to the compensation of the superior court reporters provided by law."

6 "(d) Annually during the month of January the judge or chief judge of each judicial circuit  
 7 shall certify to ~~the Department of Administrative Services~~ The Council of Superior Court  
 8 Judges of Georgia the names and addresses of all persons duly appointed as reporters for  
 9 the superior courts in the judicial circuit and shall thereafter notify the ~~department~~ council  
 10 of the removal of such persons from office or the appointment of additional persons as  
 11 superior court reporters, together with the effective date of such removal or appointment."

### 12 SECTION 7.

13 Said title is further amended by revising subparagraph (a)(1)(B) of Code Section 15-18-14,  
 14 relating to the appointment, qualifications, compensation, personnel actions, and transfers  
 15 and promotions of prosecuting attorneys, as follows:

16 "(B) Subject to the availability of funding and at the option of the Department of  
 17 Human Resources, at least one assistant district attorney to perform duties described  
 18 specifically under Code Sections 19-11-23 and 19-11-53 and generally under Article  
 19 1 of Chapter 11 of Title 19, the 'Child Support Recovery Act,' Article 2 of Chapter 11  
 20 of Title 19, the 'Uniform Reciprocal Enforcement of Support Act,' and Article 3 of  
 21 Chapter 11 of Title 19, the 'Uniform Interstate Family Support Act.' The district  
 22 attorney retains the authority to appoint one or more assistant district attorneys, who  
 23 shall be county employees, to perform the aforementioned statutory duties, so long as  
 24 such appointments are pursuant to a contract for such services with the Department of  
 25 Human Resources. Once the election to make this position a state position is made,  
 26 under this statutory provision, it shall be irrevocable. Contractual funds shall be paid  
 27 by the Department of Human Resources to the ~~Department of Administrative Services~~  
 28 Prosecuting Attorneys' Council of the State of Georgia in accordance with the  
 29 compensation provisions of this Code section, or at the election of the appointed  
 30 attorney, to the appointed attorney's judicial circuit, in accordance with the  
 31 compensation provisions of that judicial circuit; and"

### 32 SECTION 8.

33 Said title is further amended by revising subsection (d) of Code Section 15-18-14.2, relating  
 34 to victim assistance coordinator, as follows:

1 "(d) Not later than June 1 of each year, the Prosecuting Attorneys' Council of the State of  
 2 Georgia shall furnish to each district attorney ~~and the Department of Administrative~~  
 3 ~~Services~~ a budget for the judicial circuit based on the amount appropriated by the General  
 4 Assembly or otherwise available for personnel and operations of victim assistance  
 5 programs authorized by this Code section."

#### 6 SECTION 9.

7 Said title is further amended by revising Code Section 15-18-18, relating to alternate hiring  
 8 procedure of secretaries, as follows:

9 "15-18-18.

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

25 ~~(b) The provisions of this Code section shall apply only to those personnel employed prior~~  
 26 ~~to July 1, 1997. In the event of any vacancy which occurs after July 1, 1997, in a position~~  
 27 ~~heretofore compensated by a county pursuant to this Code section, said vacancy shall be~~  
 28 ~~filled as provided in Code Section 15-18-17. Reserved.~~"

#### 29 SECTION 10.

30 Said title is further amended by revising paragraph (5) of subsection (e) of Code Section  
 31 15-18-19, relating to state paid personnel, powers and policies relating thereto, and salary  
 32 schedules, as follows:

33 "(5) The compensation of state paid personnel appointed pursuant to this article shall be  
 34 paid in equal installments by the ~~Department of Administrative Services~~ Prosecuting  
 35 Attorneys' Council of the State of Georgia as provided by this subsection from funds

1 appropriated for such purpose. The council may, ~~with the consent of the Department of~~  
 2 ~~Administrative Services~~, authorize employees compensated pursuant to this Code section  
 3 to participate in voluntary salary deductions as provided by Article 3 of Chapter 7 of Title  
 4 45."

#### 5 **SECTION 11.**

6 Said title is further amended by revising paragraph (2) of subsection (c) of Code Section  
 7 15-18-40, relating to the Prosecuting Attorneys' Council of the State of Georgia purpose and  
 8 function, as follows:

9 "(2) From such funds as may be appropriated or otherwise available for the operation of  
 10 ~~the superior courts or~~ prosecuting attorneys, may provide such administrative functions,  
 11 services, supplies, equipment, or operating expenses as may be necessary for the  
 12 fulfillment of the duties and responsibilities of such prosecuting attorneys and may  
 13 contract with ~~the Department of Administrative Services or~~ any other department, bureau,  
 14 agency, commission, institution, or authority of this state or any other entity for such  
 15 purpose."

#### 16 **SECTION 12.**

17 Said title is further amended by adding a new subsection to Code Section 15-18-40, relating  
 18 to the Prosecuting Attorneys' Council of the State of Georgia purpose and function, to read  
 19 as follows:

20 "(d) Effective July 1, 2008, the ministerial functions of the commissioner of administrative  
 21 services or of the Department of Administrative Services relating to the payment of  
 22 salaries, benefits, and expenses for district attorneys and district attorney personnel  
 23 appointed pursuant to Article 1 of this chapter or solicitors-general shall be transferred to  
 24 and performed by the council."

#### 25 **SECTION 13.**

26 Said title is further amended by adding a new subsection to Code Section 15-18-41, relating  
 27 to the composition of the Prosecuting Attorneys' Council of the State of Georgia, to read as  
 28 follows:

29 "(e) The council may, by two-thirds' vote of the members, remove any member of the  
 30 council for failure to attend meetings, misconduct, incompetency, or neglect of duty."

**SECTION 14.**

Said title is further amended by revising subsection (d) of Code Section 15-18-44, relating to powers and duties of the Prosecuting Attorneys' Council of the State of Georgia, as follows:

~~"(d) The council may not provide compensation from its funds to any administrative or clerical personnel employed by the council if the personnel are then receiving retirement compensation from the Trial Judges and Solicitors Retirement Fund, the Peace Officers' Annuity and Benefit Fund, the Sheriffs' Retirement Fund of Georgia, the Superior Court Clerks' Retirement Fund of Georgia, the Superior Court Judges Retirement Fund of Georgia, or any other retirement fund created by state law to provide compensation for past services as a judicial officer, prosecuting attorney, court officer, or law enforcement officer except for county or municipal retirement funds."~~

**SECTION 15.**

Said title is further amended by adding a new Code section to read as follows:

"15-18-47.

Attorneys and investigators employed by the council shall meet the same qualifications as those provided by Code Section 15-18-21 for attorneys and investigators employed by district attorneys. Such attorneys and investigators shall take and subscribe to an oath similar to the oath required by district attorneys. When assisting a district attorney, solicitor-general, or the Attorney General, such attorneys and investigators shall have the same authority and power as an attorney or investigator employed by such district attorney, solicitor-general, or the Attorney General. Investigators employed by the council and authorized by the council to carry weapons or to exercise any of the powers of a peace officer of this state shall meet the requirements of Chapter 8 of Title 35."

**SECTION 16.**

Code Section 16-11-130 of the Official Code of Georgia Annotated, relating to exemptions from Code Sections 16-11-126 through 16-11-128, is amended by revising paragraph (5) of subsection (a) as follows:

"(5) District attorneys, investigators employed by and assigned to a district attorney's office, assistant district attorneys, attorneys or investigators employed by the Prosecuting Attorneys' Council of the State of Georgia, and any retired district attorney, assistant district attorney, ~~or district attorneys investigator, or attorney or investigator retired from the Prosecuting Attorneys' Council of the State of Georgia,~~ if such ~~retired~~ employee is retired in good standing and is receiving benefits under Title 47 or is retired in good standing and receiving benefits from a county or municipal retirement system;"

**SECTION 17.**

Article 2 of Chapter 11 of Title 19 of the Official Code of Georgia Annotated, relating to the 'Uniform Reciprocal Enforcement of Support Act,' is amended by revising paragraph (3) of Code Section 19-11-58, relating to the Department of Human Resources designation as the state information agency and duties, as follows:

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

**SECTION 18.**

Said article is further amended by revising Code Section 19-11-59, relating to payment of district attorney's fee, as follows:

"19-11-59.

The fee of the district attorney arising under this article shall be paid by the ~~commissioner of administrative services~~ Prosecuting Attorneys' Council of the State of Georgia upon receipt of the order for the payment of such fees that has been approved by the state information agency. Payment shall be made from funds appropriated for the operation of the ~~superior courts~~ district attorneys."

**SECTION 19.**

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by revising subsection (e) of Code Section 45-12-78, relating to heads of budget units to submit annual estimates, preparation and submission of budget estimates of legislative and judicial agencies, and review of budget estimates by the Office of Planning and Budget, as follows:

"(e) To effect the goal of decentralization, prior to September 1 of each year, the Office of Planning and Budget shall send all requests for new, expanded, relocated, or renovated rental real estate space to the ~~Department of Administrative Services for an evaluation to determine conformity with Article 2 of Chapter 5 of Title 50, the 'State Space Management Act of 1976.'~~ State Properties Commission. The ~~Department of Administrative Services~~ State Properties Commission shall return such evaluation to the Office of Planning and Budget prior to the Governor's submission of the budget to the General Assembly as provided in Code Section 45-12-79."

**SECTION 20.**

Said title is further amended by revising subsection (a) of Code Section 45-18-14, relating to deductions from compensation and benefit payments of share of cost of coverage under

1 plan of employees, payment of contributions to health insurance fund by departments,  
2 boards, and agencies of state, and coverage of employee appealing discharge, as follows:

3 "(a) During any period in which an employee is covered under this article prior to the date  
4 of his or her retirement, there shall be withheld from each salary payment or other  
5 compensation of such employee, as his or her share of the cost of coverage under this plan,  
6 such portion of the premium or subscription charges under the terms of any contract or  
7 contracts issued in accordance with this article as may be established by the board. During  
8 any month in which benefits are being paid by the Employees' Retirement System of  
9 Georgia to an individual so covered under this program, contributions in the amounts  
10 prescribed by the board shall be deducted from such payments with the consent of the  
11 recipient. The various departments, boards, and agencies of the executive and judicial  
12 branches of state government shall contribute to the health insurance fund such portions  
13 of the cost of such benefits as may be established by the board and the Governor as funds  
14 become available in each department, board, and agency, in addition to an amount to be  
15 established by the board to defray the cost of administration and the state's portion of the  
16 cost of benefits payable for annuitants. The legislative fiscal officer shall contribute to the  
17 health insurance fund as an employer payment for and on behalf of all members of the  
18 General Assembly and its administrative and clerical personnel. ~~The Department of~~  
19 ~~Administrative Services~~ Prosecuting Attorneys' Council of the State of Georgia shall  
20 contribute to the fund as an employer payment for and on behalf of district attorneys,  
21 assistant district attorneys, and other paid state personnel appointed pursuant to ~~Code~~  
22 ~~Section 15-18-14, and Article 1 of Chapter 18 of Title 15.~~ The Council of Superior Court  
23 Judges of Georgia shall contribute to the fund as an employer payment for and on behalf  
24 of secretaries and law clerks of the superior courts of the state ~~and secretaries employed by~~  
25 ~~district attorneys.~~ The amount of such contributions shall be such portions of the costs of  
26 such benefits as may be established by the board; and, in addition thereto, an amount to be  
27 established by the board shall be contributed to defray the costs of administration. The  
28 board shall determine whether such employer portion shall be determined based upon a  
29 percentage of the total outlay for personal services or determined on an amount per  
30 employee electing coverage under the plan based on the coverage elected, in accordance  
31 with the appropriation of funds."

### 32 SECTION 21.

33 Code Section 50-5B-2 of the Official Code of Georgia Annotated, relating to administrative  
34 units, directors, and employees of the State Accounting Office, is amended by revising  
35 subsection (a) as follows:

1 "(a) The state accounting officer shall establish such units within the State Accounting  
2 Office as he or she deems proper for its administration, including The Council of Superior  
3 Court Judges of Georgia and the Prosecuting Attorneys' Council of the State of Georgia  
4 as separate units with distinct accounting functions, and shall designate persons to be  
5 directors and assistant directors of such units to exercise such authority as he or she may  
6 delegate to them in writing."

7 **SECTION 22.**

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