



DEPARTMENT OF AUDITS AND ACCOUNTS

270 Washington Street, S.W., Suite 1-156
Atlanta, Georgia 30334-8400

Russell W. Hinton
State Auditor
(404) 656-2174

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The Honorable Bill Heath, Chairman
Senate Retirement Committee
State Capitol, Room 109
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification
Substitute to House Bill 255
(LC 21 9925S)

Dear Chairman Heath:

This substitute bill would amend general provisions relating to restrictions and prohibitions on membership in public retirement or pension systems. Specifically, this bill would expand the definition of the term 'public employment related crime' to include any felony offense related to the person's public employment in Georgia, as provided under the laws of this State, any other state, or the United States. This expanded definition would only apply to persons who first or again become members of a public retirement system on or after July 1, 2008.

This substitute bill would also amend the provisions relating to penalties imposed on employees who are convicted of 'public employment related crimes.' Currently, employees convicted of such crimes forfeit all rights and benefits under and membership in any public retirement system in which the employee is a member. If this substitute bill is enacted, employees who are convicted of a 'public employment related crime' would have their benefits, including any survivor's benefits if applicable, reduced by an amount equal to three times the economic impact of the crime. Employees would not receive any benefits until

such amount has been forfeited. If an employee has not begun receiving retirement benefits, the deduction shall commence at the time such benefits would normally begin. This substitute bill provides that 'benefits' shall not include a refund of employee contributions without interest.

Additionally, this substitute bill would provide for certain notifications of a conviction of any person for a 'public employment related crime.' Upon conviction, the prosecuting attorney would be required to notify the defendant's former employer and any public retirement system in which he or she knows the convicted public employee to be an active, inactive, or retired member.

Finally, this substitute bill defines 'economic impact of a public related crime' to mean the total of the economic gain to the perpetrator of an employment related crime and the economic loss to the public entity. This bill then specifies that an administrative law judge within the Office of State Administrative Hearings would be responsible for determining the economic impact of the crime. Under the provisions of this bill, the respective board of trustees must initiate such hearing no later than 30 days after receiving notification of an employee's conviction.

This is to certify that this substitute bill is a nonfiscal bill as defined in the Public Retirement Systems Standards Law.

Respectfully,

/s/ Russell W. Hinton
State Auditor

RWH/cs