

Senate Bill 100

By: Senators Smith of the 52nd, Wiles of the 37th, Hill of the 4th, Harp of the 29th, Hamrick of the 30th and others

**AS PASSED SENATE**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 8 of Chapter 2 of Title 47 of the Official Code of Georgia Annotated,  
2 relating to provisions applicable to particular groups of employees in the Employees'  
3 Retirement System of Georgia, so as to change the designation of the Georgia Public  
4 Defender Standards Council to the Georgia Public Defender Agency; to provide conditions  
5 for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 8 of Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to  
9 provisions applicable to particular groups of employees in the Employees' Retirement System  
10 of Georgia, is amended by revising Code Section 47-2-323, relating to membership in the  
11 Employees' Retirement System of Georgia by employees of the Georgia Public Defender  
12 Standards Council, creditable service, and contributions, as follows:

13 "47-2-323.

14 (a) As used in this Code section, the term:

15 (1) '~~Council~~ Agency' means the Georgia Public Defender ~~Standards Council~~ Agency.

16 (2) 'Employee' means any full-time employee of the ~~council~~ agency.

17 (3) 'Proof of prior employment' means pay records, income tax withholding records, or  
18 other records of the ~~council~~ agency which are sufficient to establish to the satisfaction of  
19 the board of trustees the prior employment record of an employee of the ~~council~~ agency.

20 (b) Effective July 1, 1994, or on the date of employment, each employee of the ~~council~~  
21 agency shall become a member of the retirement system.

22 (c)(1) This subsection shall apply only to an employee of the ~~council~~ agency employed  
23 by the ~~council~~ agency prior to July 1, 1994.

24 (2) An employee of the ~~council~~ agency who is subject to the provisions of this subsection  
25 shall, upon furnishing proof of prior employment to the board of trustees, be eligible to  
26 receive creditable service under this retirement system for prior employment as an

27 employee of the council agency, subject to the requirements of this subsection. Any such  
28 employee ~~must~~ shall pay to the board of trustees the employee contributions which would  
29 have been paid during the period of prior employment if the employee had been a  
30 member of the retirement system during such period. The council agency shall pay from  
31 any funds available to the council agency the employer contributions which would have  
32 been paid during such period of prior employment. For a member claiming creditable  
33 service for prior employment under this subsection, the board of trustees shall determine  
34 the period of time that the payments to the board of trustees provided for under this  
35 subsection will fund as creditable service under the retirement system without creating  
36 any additional accrued liability of the retirement system. Except as otherwise provided  
37 in paragraph (3) of this subsection, the amount of creditable service so determined shall  
38 be the creditable service to which the member is entitled.

39 (3) The council agency shall be authorized to supplement, if necessary, the payments  
40 made to the board of trustees under paragraph (2) of this subsection in an amount, as  
41 determined by the board of trustees, which will fully fund as creditable service the total  
42 amount of prior employment of the employee without creating any additional accrued  
43 liability of the retirement system. If such supplement is paid to the board of trustees by  
44 the council agency, the employee shall receive full creditable service under the retirement  
45 system for all prior employment as an employee of the council agency.

46 (d) Any employee of the council agency who was already a member of the retirement  
47 system on July 1, 1994, and any member of the retirement system who, without any break  
48 in service, becomes an employee of the council agency on or after July 1, 1994, shall  
49 continue in the same membership status without any interruption in membership service  
50 and without the loss of any creditable service.

51 (e) Except as otherwise provided in subsection (d) of this Code section, an employee of  
52 the council agency becoming a member of the retirement system pursuant to the provisions  
53 of this Code section shall be subject to the provisions of Code Section 47-2-334.

54 (f) All employer contributions, including employee contributions made by the employer  
55 on behalf of members, which are required by this chapter shall be made for members who  
56 are subject to the provisions of this Code section from funds appropriated to or otherwise  
57 available for the operation of the council agency. The council agency shall deduct from  
58 the salaries payable to such members the additional employee contributions required by  
59 this chapter."

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**SECTION 2.**

61 This Act shall become effective on July 1, 2009, only if an Act is enacted during the 2009  
62 session of the General Assembly creating the Georgia Public Defender Agency; otherwise,  
63 this Act shall not become effective and shall be automatically repealed in its entirety on July  
64 1, 2009.

65

**SECTION 3.**

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