

Senate Bill 275

By: Senators Jackson of the 24th, Hudgens of the 47th, Cowser of the 46th and Goggans of the 7th

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 create the Municipal Court Clerks' Retirement Fund of Georgia; to define
3 certain terms; to create the Board of Commissioners of the Municipal Court Clerks'
4 Retirement Fund of Georgia; to provide for membership, appointment, and terms; to provide
5 for powers and duties; to provide for audits; to provide for participation in the fund; to
6 provide for membership dues; to provide for the payment of a portion of certain fines and
7 forfeitures into the fund; to provide for retirement benefits; to provide for surviving spouses'
8 benefits; to provide for related matters; to provide conditions for an effective date and
9 automatic repeal; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is
13 amended by adding a new chapter to read as follows:

14 "CHAPTER 26
15 ARTICLE 1

16 47-26-1.

17 As used in this chapter, the term:

18 (1) 'Board' means the Board of Commissioners of the Municipal Court Clerks'
19 Retirement Fund of Georgia.

20 (2) 'Clerk' means a clerk of a municipal court as defined in Code Section 36-32-13.

21 (3) 'Fund' means the Municipal Court Clerks' Retirement Fund of Georgia.

22 (4) 'Member' means a member of the fund.

ARTICLE 247-26-20.

(a) There is created the Board of Commissioners of the Municipal Court Clerks' Retirement Fund of Georgia. The board shall consist of seven members as follows:

(1) The Governor or the Governor's designee;

(2) An appointee of the Governor who is not the Attorney General; and

(3) Five clerks who shall be members of the fund, provided that at least one but not more than two of such clerks shall be retired clerks receiving retirement benefits pursuant to this chapter.

(b) The members of the board provided for by paragraph (3) of subsection (a) of this Code section shall be appointed by the Governor. The first such members shall be appointed by the Governor to take office on January 1, 2010, for initial terms as follows: two such members shall be appointed for terms of one year; two such members shall be appointed for terms of two years; and one such member shall be appointed for a term of one year. Thereafter, the Governor shall appoint successors upon the expiration of the respective terms of office for terms of three years. All such members shall serve until their successors are appointed and qualified. Such members shall be eligible for reappointment to successive terms of office as members of the board.

(c) The board shall elect a chairperson from the clerks serving as members of the board who actively hold office as clerks. The term of the chairperson shall be established by rules of the board.

(d) If a vacancy occurs in the membership of the board appointed pursuant to subsection (b) of this Code section, the remaining members of the board shall elect a person meeting the qualifications specified by paragraph (3) of subsection (a) of this Code section to fill such vacancy for the unexpired portion of the term.

(e) Four members of the board shall constitute a quorum for the transaction of business.

(f) All of the members of the board shall serve without pay, but they shall be reimbursed for their actual expenses in attending meetings of the board and performing the duties required of them as members of the board.

47-26-21.

(a) There is created the office of secretary-treasurer of the fund. The secretary-treasurer shall be selected and appointed by the board and shall serve at the pleasure of the board. His or her compensation shall be fixed by the board. He or she shall have such power and authority as may be given him or her by the board and shall perform such duties and services as the board may desire.

58 (b) The secretary-treasurer shall make quarterly reports to the board showing the total
59 amount of money in his or her hands at the time such report is made and also showing a full
60 accounting of receipts and expenditures since his or her last quarterly report.

61 (c) The secretary-treasurer shall give a good and sufficient surety bond in an amount to be
62 determined by the board. The bond shall be made payable to the board and shall be
63 contingent upon the proper and faithful performance of his or her duties as
64 secretary-treasurer.

65 47-26-22.

66 (a) The board shall have the power and duty to:

67 (1) Provide for the collection of all moneys in connection with this chapter;

68 (2) Provide for the payment of all administrative expenses;

69 (3) Hear and decide all applications for retirement benefits under this chapter;

70 (4) Provide for the payment of all retirement benefits that may be determined to be due
71 under the rules and regulations as adopted by the board;

72 (5) Make all necessary rules and regulations not inconsistent with the laws of this state
73 for its government and for the government of the employees who are employed to
74 administer this chapter;

75 (6) Determine and fix rules of eligibility of persons to receive retirement benefits under
76 this chapter;

77 (7) Make provisions for refunds and repayments to persons who may be entitled to
78 receive them;

79 (8) Keep records of all its meetings; and

80 (9)(A) Subject to the terms and limitations of this paragraph, the board is authorized
81 to adopt from time to time a method or methods of providing for increases in the
82 maximum monthly retirement benefit payable under Article 5 of this chapter for
83 persons retiring under this chapter. Such method shall be based upon:

84 (i) The recommendation of the actuary of the board;

85 (ii) The maintenance of the actuarial soundness of the fund in accordance with the
86 standards provided in Code Section 47-20-10 or such higher standards as may be
87 adopted by the board; and

88 (iii) Such other factors as the board deems relevant. Any such increase may be
89 uniform or may vary in accordance with the time of retirement, length of service, age,
90 nature of the retirement, or such other factors as the board shall determine.

91 (B) Increases made pursuant to subparagraph (A) of this paragraph shall become
92 effective as of January 1 or July 1, or both January 1 and July 1, of the year in which

93 such increases are granted; provided, however, that no such increase shall exceed 1 1/2
94 percent of the maximum monthly retirement benefit then in effect.

95 (b) The board shall have all other powers necessary for the proper administration of this
96 chapter.

97 47-26-23.

98 (a) The board shall have control of the funds provided for in this chapter; and all funds
99 received by the board shall be deposited in a special account to the credit of the fund.
100 Benefits under this chapter and all administrative expenses shall be paid from such funds.
101 The board shall have authority to expend the funds in accordance with this chapter.

102 (b) The board shall have full power to invest and reinvest the assets of the fund and to
103 purchase, hold, sell, assign, transfer, and dispose of any securities and other investments
104 in which assets of the fund have been invested, any proceeds of any investments, and any
105 money belonging to the fund; provided, however, that such power shall be subject to all
106 terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of this
107 title, the 'Public Retirement Systems Investment Authority Law.'

108 (c) The board is authorized to employ agents, including, but not limited to, banks or trust
109 departments thereof, and to enter into contracts with such agents for their services as
110 investment advisors and counselors in making recommendations for investments and in
111 making investments if the board so authorizes.

112 47-26-24.

113 The board, by gift, grant, or bequest, may take any money, real or personal property, or any
114 other thing of value and may hold or invest the same for the uses and purposes of the fund
115 in accordance with this chapter.

116 47-26-25.

117 The board shall keep permanent records of retirement benefits granted and shall keep
118 proper records and books concerning the operation of the board. Each year, the board shall
119 present an annual financial statement of the fund at the annual meeting of the Georgia
120 Municipal Courts Training Council.

121 47-26-26.

122 The state auditor is authorized and directed to make an annual audit of the acts and doings
123 of the board and to make a complete report of that audit to the General Assembly. The
124 state auditor shall not be required to distribute copies of the report to the members of the
125 General Assembly but shall notify the members of the availability of the report in the

126 manner which he or she deems to be most effective and efficient. The report shall disclose
 127 all moneys received by the board and all its expenditures, including administrative
 128 expenses and payments made as annuities and benefits. The state auditor shall also make
 129 an audit of the affairs of the board at any time when requested by a majority of the board
 130 or the Governor.

131 ARTICLE 3

132 47-26-40.

133 (a) Each clerk in this state shall participate in the fund. Each clerk shall make application
 134 to the fund upon forms to be furnished for that purpose by the board, giving such
 135 information as may be required by the board. Such application shall be made not later than
 136 July 1, 2010, or within 30 days of first becoming a clerk, whichever date is later. Each
 137 member shall pay \$75.00 per month into the fund. All clerks shall remit to the board, not
 138 later than the tenth day of each subsequent month, the amount due under this subsection.

139 (b) If any payment required to be made to the fund by a clerk remains unpaid 60 days from
 140 the date such payment is due, there shall also be due a late charge, which late charge shall
 141 be interest from the due date computed at 10 percent per annum or the sum of \$5.00,
 142 whichever is the greater amount. In the event of such delinquency, in order to be eligible
 143 to receive any benefits provided by this chapter, a clerk shall remit the late charge with
 144 such delinquent payment.

145 (c) No creditable service shall be granted for any month for which dues are in arrears on
 146 the last day of the calendar year during which the dues were due, but payment shall be
 147 deemed timely and creditable if such dues and late charges are received by the board on or
 148 before the tenth day of the succeeding month following the last day of the preceding
 149 calendar year.

150 47-26-41.

151 Initial membership in the fund shall commence on July 1, 2010. Initial payments into the
 152 fund shall cover the period beginning July 1, 2010.

153 ARTICLE 4

154 47-26-50.

155 (a) A portion of each fine collected and each bond forfeited and collected in any case for
 156 violation of provisions of Title 40, which case is before any municipal court, shall be paid
 157 to the secretary-treasurer according to the following schedule:

158 (1) Three dollars for any fine or bond forfeiture of more than \$20.00, but not more than
159 \$35.00;
160 (2) Four dollars for any fine or bond forfeiture of more than \$35.00, but not more than
161 \$50.00;
162 (3) Five dollars for any fine or bond forfeiture of more than \$50.00, but not more than
163 \$100.00; and
164 (4) Five percent of any fine or bond forfeiture of more than \$100.00.
165 (b) For purposes of determining amounts to be paid to the secretary-treasurer, the amount
166 of the fine or bond collected shall be deemed to include costs. The amounts provided for
167 shall be paid to the secretary-treasurer before the payment of any costs or any claim
168 whatsoever against such fine or forfeiture. The collecting authority shall pay such amounts
169 to the secretary-treasurer on the first day of the month following that in which they were
170 collected or at such other time as the board may provide. With such payment, there shall
171 be filed an acceptable form which shows the number of cases in each of the above
172 categories and the amounts due in each category. It shall be the duty of the collecting
173 authority to keep accurate records of the amounts due the board so that the records may be
174 audited or inspected at any time by any representative of the board under its direction.
175 Sums remitted to the secretary-treasurer under this Code section shall be used as provided
176 for elsewhere in this chapter.
177 (c) If the clerk or other collecting authority whose duty it is to collect and remit moneys
178 to the fund under subsection (b) of this Code section shall fail to remit such moneys within
179 60 days of the date on which such remittal is due, such moneys shall be delinquent; and
180 there shall be imposed, in addition to the principal amount due, a specific penalty in the
181 amount of 5 percent of the principal amount per month for each month during which the
182 funds continue to be delinquent, provided that such penalty shall not exceed a total of 25
183 percent of the principal due. In addition to such penalty, interest shall be charged on the
184 delinquent moneys at the rate of 6 percent per annum from the date such moneys became
185 delinquent until they are paid. All moneys which have not been paid to the fund within 60
186 days of the due date shall be delinquent. By affirmative vote of all members, the board,
187 upon the payment of the delinquent moneys together with interest and for good cause
188 shown, may waive the specific penalty otherwise charged under this subsection.

189 ARTICLE 5

190 47-26-70.

191 (a)(1) A member who retires with at least 20 years of service as a clerk shall, upon
192 attaining the age of 60, receive retirement benefits of \$1,700.00 per month upon

193 retirement, provided that such member shall have served continuously as a clerk for the
194 four years immediately preceding such member's retirement.

195 (2) A member who retires with at least 16 years of service as a clerk shall, upon attaining
196 the age of 60, receive retirement benefits of \$1,360.00 per month upon retirement,
197 provided that such member shall have served continuously as a clerk for the four years
198 immediately preceding such member's retirement.

199 (3) A member who retires with at least 12 years of service either as a clerk shall, upon
200 attaining the age of 60, receive retirement benefits of \$1,020.00 per month upon
201 retirement, provided that such member shall have served continuously as a clerk for the
202 four years immediately preceding such member's retirement.

203 (b) In lieu of the retirement benefits provided in subsection (a) of this Code section, a
204 member, upon retirement, may elect to receive 90 percent of the benefits such member is
205 entitled to receive under subsection (a) of this Code section during the remainder of such
206 member's life; and, after such member's death, such member's surviving spouse shall
207 receive a monthly sum during the lifetime of the surviving spouse equal to 50 percent of
208 such amount. In order to be eligible for such benefits, the surviving spouse shall have been
209 married to the member for at least six years immediately preceding the member's death.
210 Such benefits shall not commence until after the surviving spouse reaches 60 years of age.

211 47-26-71.

212 In the event of the death of any clerk who has not retired under any of the provisions of this
213 chapter, but who was eligible to do so, the surviving spouse shall receive a surviving
214 spouse's benefit calculated pursuant to subsection (b) of Code Section 47-26-70. In order
215 to receive such benefits, any such surviving spouse shall be at least 60 years of age and
216 have been married to such clerk for at least six years immediately preceding the death of
217 such clerk.

218 47-26-72.

219 Any other provisions of this chapter to the contrary notwithstanding, a clerk may terminate
220 his or her official duties as clerk and be eligible for retirement benefits if he or she has
221 fulfilled the qualifications necessary therefor; but if he or she has not reached the age of 60
222 at the time he or she terminates his or her official duties, he or she shall not commence
223 receiving his or her retirement benefits until he or she reaches that age.

224 47-26-73.

225 Any member may withdraw the total sum, without interest, which he or she has paid into
226 the fund. In order to become eligible to rejoin the fund and to receive any benefits under

227 this chapter after such withdrawal, he or she must repay the entire amount which he or she
 228 has withdrawn, plus interest at 6 percent per annum. A member shall not receive credit for
 229 any service after such withdrawal unless such member pays the dues which he or she would
 230 have paid had such member been a member of the fund during such period of service, plus
 231 interest on such amounts at 6 percent per annum. If any clerk dies before being retired, the
 232 total amount, without interest, which has been paid by such member into the fund shall be
 233 paid to his or her estate. If, after retiring, any clerk should die without leaving a surviving
 234 spouse and without having received the amount in benefits equal to the amount which he
 235 or she had paid into the fund, the difference, without interest, shall be paid to his or her
 236 estate. If after retiring, any clerk should die leaving a surviving spouse and such surviving
 237 spouse should thereafter die without having received the amount of benefits equal to the
 238 amount which had been paid into the fund less the amount received by such clerk before
 239 his or her death, the difference, without interest, shall be paid to his or her estate.

240 47-26-74.

241 Notwithstanding any other provision of this chapter to the contrary, a clerk shall not receive
 242 credit for retirement purposes for any service performed as a clerk prior to membership in
 243 the fund.

244 ARTICLE 6

245 47-26-90.

246 If the funds derived from the sources provided for in this chapter are not sufficient at any
 247 time to enable the board to pay, in full, each person determined to be entitled to benefits
 248 under this chapter, then the prorated percentage of such payments shall be made to each
 249 such person until the fund shall be replenished sufficiently to enable the board to resume
 250 such payments in accordance with this chapter. Before resuming such payments, all
 251 persons who received deficiency payments shall be paid in full. In no event shall the board
 252 or any member of the board be liable to any person for any deficiencies in payments made
 253 under this Code section."

254 **SECTION 2.**

255 This Act shall become effective on July 1, 2010, only if it is determined to have been
 256 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
 257 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
 258 become effective and shall be automatically repealed in its entirety on July 1, 2010, as
 259 required by subsection (a) of Code Section 47-20-50.

260

SECTION 3.

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