

Senate Bill 322

By: Senators Walker III of the 20th, Gooch of the 51st, Anavitarte of the 31st, Albers of the 56th and Summers of the 13th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 16 of Title 47 of the Official Code of Georgia Annotated, relating to the
2 Sheriffs' Retirement Fund of Georgia, so as to provide for an increase in dues; to provide for
3 an increase in the sum to be paid for purchasing prior service credit; to provide for payment
4 to the fund for fees collected in criminal and quasi-criminal cases prior to adjudication of
5 guilt; to increase payments to the fund from fees collected in civil actions; to increase the
6 benefit payable upon the death of certain members of the fund; to prohibit under certain
7 circumstances payments from the retirement system for any sheriff convicted of a felony
8 related to his or her employment with or for the sheriff's office; to provide for the forfeit of
9 accumulated contributions; to provide for inapplicability and determinations by the
10 Department of Law; to provide for related matters; to provide conditions for an effective date
11 and automatic repeal; to repeal conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Chapter 16 of Title 47 of the Official Code of Georgia Annotated, relating to the Sheriffs'
15 Retirement Fund of Georgia, is amended by revising Code Section 47-16-40, relating to

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application for membership in the fund, contents of application, and claim for credit for prior service, as follows:

"47-16-40.

In order to become a member of the Sheriffs' Retirement Fund of Georgia, an applicant must meet the following requirements:

(1) He or she must be a duly qualified and commissioned sheriff of a county of the State of Georgia, serving as sheriff of the superior court of that county at the time he or she files his or her application;

(2) He or she must file his or her application for membership with the secretary-treasurer within one year from the date he or she begins service as a sheriff or within the time limits set forth in Code Section 47-16-41;

(3) He or she must set out in the application for membership his or her correct date of birth;

(4) He or she must list in his or her application for membership all periods of prior service, including credit under Code Section 47-16-80 for services in the armed forces of the United States or as a peace officer, for which service he or she intends to ask credit as basis for his or her future retirement, or shall forever be barred from claiming credit for services not so listed;

(5) The member must tender with the application, within 12 months from the date of that application, or at such other time as the board may provide, a sum equal to the total of ~~\$37.50~~ \$65.00 per month for credit claimed by the member under paragraph (4) of this Code section for past service from and including January 1, 1961, to the date of application; or if such amount is not paid by the due date, the member shall be conclusively deemed to have waived his or her claim or right for credit for such period of time; or

(6) He or she must also furnish to the board such other information and proof of pertinent facts set out in the application for membership or relative to it as may be required by the

43 board; and failure to do so shall constitute grounds for denial of the application for
44 membership by the board."

45 **SECTION 2.**

46 Said chapter is further amended by revising Code Section 47-16-43, relating to requirements
47 for continued active membership in the fund, as follows:

48 "47-16-43.

49 In order to retain active membership in the fund, each member must:

50 (1) Continue serving as a sheriff;

51 (2) Pay to the secretary-treasurer membership dues of ~~\$45.00~~ \$65.00 per month. Such
52 payment shall be due on or before the tenth day of the following month until the member
53 has made such payments for a total of 30 years; and

54 (3) Comply with all other mandatory provisions of this chapter and all rules and
55 regulations promulgated by the board."

56 **SECTION 3.**

57 Said chapter is further amended by revising Code Section 47-16-60, relating to payments to
58 fund from fines and bonds collected in criminal and quasi-criminal cases, duty of collecting
59 authority to record and remit, and penalty for late payment, as follows:

60 "47-16-60.

61 (a) The sum of \$2.00 shall be allocated to the board from each fine collected and each
62 bond forfeited and collected in any criminal or quasi-criminal case for violation of state
63 law, including traffic laws, which case is before any court of this state in which a sheriff
64 of a superior court or a duly authorized deputy of such sheriff acts as sheriff to such court
65 by virtue of his or her office, provided that such fine or bond, which shall be construed to
66 include costs, is at least \$5.00. The clerk or other collecting authority for the court in
67 which the fine or bond is collected shall pay such amounts to the secretary-treasurer each

quarter or at such other times as the board may provide. These sums shall be paid to the secretary-treasurer before the payment of any costs or any claim whatsoever against such fine or forfeiture, provided that this shall not be construed to repeal any existing priorities established under the laws of this state. It shall be the duty of the clerk or other collecting authority for each court to keep accurate records of the amounts due to the board and to remit the amounts due promptly. Such records may be audited by the board at any time. The sums remitted to the board under this Code section shall be used only for the purposes provided for in this chapter.

(b) Two dollars of each fee collected prior to adjudication of guilt for purposes of pretrial diversion pertaining to any criminal or quasi-criminal case for violation of state statutes, county ordinances, or municipal ordinances as provided for in subsection (f) of Code Section 15-18-80, which case is before any court or tribunal in this state, shall be paid to the secretary-treasurer. The clerk of court as provided for in subsection (f) of Code Section 15-18-80 shall pay such amounts to the secretary-treasurer on the first day of the month following that in which they were collected or at such other time as the board may provide. With such payments, there shall be filed an acceptable form from the clerk of court which shows the number of cases in each of the above categories and the amounts due in each category. It shall be the duty of the clerk of court to keep accurate records of the amounts due the board so that records may be audited or inspected at any time by any representative of the board under its direction.

~~(b)~~(c) If the person or authority whose duty it is to collect and remit moneys to the secretary-treasurer under subsection (a) of this Code section shall fail to remit such moneys within 60 days of the date on which such remittal is due, such moneys shall be delinquent; and there shall be imposed, in addition to the principal amount due, a specific penalty in the amount of 5 percent of the principal amount per month for each month during which the moneys continue to be delinquent, provided that such penalty shall not exceed a total of 25 percent of the principal due. In addition to such penalty, interest shall be charged on

the delinquent moneys at the rate of 6 percent per annum from the date such moneys become delinquent until they are paid. All moneys due on or before May 1, 1968, and not paid shall be delinquent after the expiration of 60 days from that date. By affirmative vote of all the members, the board, upon the payment of the delinquent moneys together with interest and for good cause shown, may waive the specific penalty otherwise charged under this subsection."

SECTION 4.

Said chapter is further amended by revising subsections (a) and (b) of Code Section 47-16-61, relating to payments to fund from fees collected in civil actions, duty to record and remit sums collected, and penalties on delinquent amounts, as follows:

"(a) In addition to all other legal costs, the sum of ~~\$1.00~~ \$5.00 shall be charged and collected in each civil action, case, or proceeding, including, without limiting the generality of the foregoing, all adoptions, charters, petitions for review, applications by personal representative for leave to sell or invest, trade name registrations, applications for change of name, and all other proceedings of a civil nature filed in the superior courts. The clerks of the superior courts shall collect such fees, and the fees so collected shall be remitted to the board quarterly or at such other time as the board may provide. It shall be the duty of the clerks of the superior courts to keep accurate records of the amounts due the board under this subsection, and such records may be audited by the board at any time. The sums remitted to the board under this subsection shall be used only for the purposes provided for in this chapter.

(b) In addition to all other legal costs, the sum of ~~\$1.00~~ \$5.00 shall be charged and collected in each civil action, case, or proceeding, including, without limiting the generality of the foregoing, all adoptions, charters, petitions for review, applications by personal representative for leave to sell or invest, trade name registrations, applications for change of name, and all other proceedings of a civil nature filed in the state courts and magistrate

121 courts of this state in which the sheriff of the superior court also fulfills the function as
122 sheriff of such inferior court. The clerks of such state courts and magistrate courts shall
123 collect such fees, and the fees so collected shall be remitted to the board quarterly or at
124 such other time as the board may provide. It shall be the duty of the clerks of such state
125 courts and magistrate courts to keep accurate records of the amounts due the board under
126 this subsection, and such records may be audited by the board at any time. The sums
127 remitted to the board under this subsection shall be used only for the purposes provided for
128 in this chapter."

129 SECTION 5.

130 Said chapter is further amended by revising Code Section 47-16-102, relating to death
131 benefits, beneficiaries, and procedure for designation of beneficiary to receive such benefits,
132 as follows:

133 "47-16-102.

134 In addition to the retirement benefits provided in this chapter, death benefits shall be paid
135 to members in accordance with the following:

136 (1) If any member of this fund dies before retirement, whether such member is active or
137 inactive, an amount equal to the total amount which has been paid by such member into
138 the fund as dues shall be paid, without interest, to such member's surviving spouse, if any,
139 to such member's named beneficiary, if any, or to such member's estate, in that order. If
140 any member dies after retirement without having received an amount equal in benefits
141 to the total amount which he or she has paid into the fund as dues, the difference, without
142 interest, shall be paid to his or her surviving spouse, if any, to his or her named
143 beneficiary, if any, or to such member's estate, in that order;

144 (2) In addition to the death benefits provided in paragraph (1) of this Code section, upon
145 the death of any inactive member who would otherwise qualify to be carried upon the
146 active membership rolls but for the fact that the member no longer holds the office of

sheriff, any member who is receiving retirement benefits, or any member who is otherwise qualified to receive retirement benefits from this fund except that the member has not reached the age of 55 years or has not filed an application or has not been approved for retirement benefits, the sum of ~~\$15,000.00~~ \$35,000.00 shall be paid as additional death benefits to the surviving spouse of such member, if any, to the member's named beneficiary, if any, or to the member's estate, in that order. Upon the death of any active member, the sum of ~~\$15,000.00~~ \$35,000.00 shall be paid as additional death benefits to the surviving spouse of such member, if any, to the member's named beneficiary, if any, or to the member's estate, in that order;

(3) At the time any member submits his or her application for membership in this fund, at the time any member submits his or her application for retirement benefits, and from time to time any member of this fund, whether carried on the active or inactive rolls of this fund, and any person who is receiving retirement benefits from this fund shall be afforded the opportunity to name a designated beneficiary to receive the death benefits provided for in this Code section; provided, however, that such named beneficiary shall be entitled to receive such death benefits only in the event such member or person does not leave surviving a spouse at the time of his or her death. The procedure by which a member or person receiving retirement benefits names a beneficiary to receive the death benefits provided for in this Code section shall be determined and established by the board, which shall have authority to establish forms and procedures for payment of the death benefits; and

(4) Upon the death of an active member before or after the retirement of such member, the surviving spouse of such member shall receive death benefits in the form of an annuity for the life of such spouse, such annuity to be determined and paid under paragraph (2) of subsection (a), subsection (b), and subsection (c) of Code Section 47-16-101 to the same extent as if such member had died while receiving retirement benefits under Option Two; and in the case of the death of an active member who is not

already receiving retirement benefits, such annuity shall be determined and based upon the period of creditable service which such member has at the time of his or her death. Such benefit shall be in addition to benefits under paragraph (2) of this Code section, and in lieu of benefits under paragraph (1) of this Code section."

SECTION 6.

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

"47-16-104.

(a) For individuals who first or again become members of this retirement system on or after July 1, 2024, if any member of this retirement system is convicted in any state or federal court of a felony that is related, in any way, to his or her employment with or for a sheriff's office in this state, he or she shall be subject to the provisions of subsections (b) and (c) of this Code section.

(b)(1) Upon any such conviction described in subsection (a) of this Code section, all benefits payable from this retirement system on account of such member shall immediately cease.

(2) If such a conviction of a member of this retirement system is overturned on appeal or otherwise vacated, such benefit payments shall resume and any back payments shall be payable with interest at a market rate to be determined by the board.

(3) If such conviction stands, after all possible appeals related to the member's conviction have been exhausted, all contributions to the fund made by or on behalf of such member, including any interest thereon, shall be forfeited to the fund. Any such individual shall no longer be a member of the fund and shall be prohibited from any future membership in the fund.

(c) The provisions of this Code section shall not supersede the provisions of Article 2 of Chapter 1 of this title. Each member shall be subject to the provisions of this Code section in lieu of said article only in the event the Department of Law determines that the

200 provisions of Article 2 of Chapter 1 of this title are inapplicable or that the provisions of
201 this Code section apply in a manner that is more punitive than those provided for in said
202 article."

203 **SECTION 7.**

204 This Act shall become effective on July 1, 2024, only if it is determined to have been
205 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
206 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
207 become effective and shall be automatically repealed in its entirety on July 1, 2024, as
208 required by subsection (a) of Code Section 47-20-50.

209 **SECTION 8.**

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