

The House Committee on Retirement offers the following substitute to SB 322:

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 increase payments to
4 the fund from fees collected in civil actions; to increase the benefit payable upon the death
5 of certain members of the fund; to prohibit under certain circumstances payments from the
6 retirement system for any sheriff convicted of a felony related to his or her employment with
7 or for the sheriff's office; to provide for the forfeit of accumulated contributions; to provide
8 for inapplicability and determinations by the Department of Law; to provide for related
9 matters; to provide conditions for an effective date and automatic repeal; to repeal conflicting
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 16 of Title 47 of the Official Code of Georgia Annotated, relating to the Sheriffs'
14 Retirement Fund of Georgia, is amended by revising Code Section 47-16-40, relating to
15 application for membership in the fund, contents of application, and claim for credit for prior
16 service, as follows:

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17 "47-16-40.

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

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

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

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

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

33 (5) The member must tender with the application, within 12 months from the date of that
34 application, or at such other time as the board may provide, a sum equal to the total of
35 ~~\$37.50~~ \$65.00 per month for credit claimed by the member under paragraph (4) of this
36 Code section for past service from and including January 1, 1961, to the date of
37 application; or if such amount is not paid by the due date, the member shall be
38 conclusively deemed to have waived his or her claim or right for credit for such period
39 of time; or

40 (6) He or she must also furnish to the board such other information and proof of pertinent
41 facts set out in the application for membership or relative to it as may be required by the
42 board; and failure to do so shall constitute grounds for denial of the application for
43 membership by the board."

SECTION 2.

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

"47-16-43.

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

(1) Continue serving as a sheriff;

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

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

SECTION 3.

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

"47-16-60.

(a) The sum of \$2.00 shall be allocated to the board from each fine collected and each bond forfeited and collected in any criminal or quasi-criminal case for violation of state law, including traffic laws, which case is before any court of this state in which a sheriff of a superior court or a duly authorized deputy of such sheriff acts as sheriff to such court by virtue of his or her office, provided that such fine or bond, which shall be construed to include costs, is at least \$5.00. The clerk or other collecting authority for the court in 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) 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~~ \$2.50 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~~ \$2.50 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 courts of this state in which the sheriff of the superior court also fulfills the function as sheriff of such inferior court. The clerks of such state courts and magistrate 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 such state courts and magistrate 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."

SECTION 5.

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

"47-16-102.

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

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

(2) In addition to the death benefits provided in paragraph (1) of this Code section, upon the death of any inactive member who would otherwise qualify to be carried upon the 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~~ \$30,000.00 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~~ \$30,000.00 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 provisions of Article 2 of Chapter 1 of this title are inapplicable or that the provisions of this Code section apply in a manner that is more punitive than those provided for in said article."

SECTION 7.

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

SECTION 8.

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