

The Senate Committee on Appropriations offers the following substitute to HB 279:

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 15, Article 2 of Chapter 12 of Title 17, and Code Section 45-7-4 of the
 2 Official Code of Georgia Annotated, relating to courts, public defenders, and annual salaries
 3 of certain state officials, respectively, so as to provide daily expense allowances to Supreme
 4 Court Justices and Court of Appeals Judges in certain circumstances; to change provisions
 5 relating to the compensation of superior court judges, district attorneys, circuit public
 6 defenders, Supreme Court Justices, and Court of Appeals Judges; to provide for
 7 accountability court salary supplements for judicial officers serving in circuits with drug
 8 court, mental health court, and veterans court divisions; to change provisions relating to
 9 county salary supplements for superior court judges, district attorneys, and circuit public
 10 defenders; to provide for a fourth judge of the superior courts of the Western Judicial Circuit;
 11 to provide for the appointment of such additional judge by the Governor; to provide for the
 12 election of successors to the judge initially appointed; to prescribe the powers of such judge;
 13 to prescribe the compensation, salary, and expense allowance of such judge to be paid by the
 14 State of Georgia and the counties comprising said circuit; to provide for the selection of a
 15 chief judge; to authorize the judges of such circuit to divide and allocate the work and duties
 16 thereof; to provide for the manner of impaneling jurors; to provide for an additional court
 17 reporter for such circuit; to authorize the governing authority of the counties that comprise
 18 the Western Judicial Circuit to provide facilities, office space, supplies, equipment, and
 19 personnel for such judges; to declare inherent authority; to create the Judicial, District
 20 Attorney, and Circuit Public Defender Compensation Commission; to provide for the
 21 purpose, membership, terms, chairperson, other officers, committees, staffing, and funding
 22 for the commission; to provide for meetings and members' expenses; to provide for the
 23 duties, powers, reporting, and responsibilities of the commission; to provide for automatic
 24 repeal of the commission; to provide for related matters; to provide for a contingent effective
 25 date and effective dates; to repeal conflicting laws; and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

27 **PART I**

28 **SECTION 1-1.**

29 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding
30 a new paragraph to subsection (b) of Code Section 15-2-3, relating to oath of Justices and
31 compensation, as follows:

32 "(3) If a Justice resides 50 miles or more from the judicial building in Atlanta, such
33 Justice shall also receive the same daily expense allowance as members of the General
34 Assembly receive, as set forth in Code Section 28-1-8, for not more than 30 days during
35 each term of court. Such days shall be utilized only when official court business is being
36 conducted. All allowances provided for in this paragraph shall be paid upon the
37 submission of proper vouchers."

38 **SECTION 1-2.**

39 Said title is further amended by adding a new paragraph to subsection (b) of Code Section
40 15-3-5, relating to oath of Judges and compensation, to read as follows:

41 "(3) If a Judge resides 50 miles or more from the judicial building in Atlanta, such Judge
42 shall also receive the same daily expense allowance as members of the General Assembly
43 receive, as set forth in Code Section 28-1-8, for not more than 30 days during each term
44 of court. Such days shall be utilized only when official court business is being
45 conducted. All allowances provided for in this paragraph shall be paid upon the
46 submission of proper vouchers."

47 **SECTION 1-3.**

48 Said title is further amended by revising subsections (a) and (b) of Code Section 15-6-29,
49 relating to the salary of superior court judges, as follows:

50 "(a) The annual salary of the judges of the superior courts shall be as provided in Code
51 Section 45-7-4 and may be as provided in Code Section 15-6-29.1. The annual salary
52 provided by Code Section 45-7-4 shall be paid by The Council of Superior Court Judges
53 of Georgia in 12 equal monthly installments.

54 (b) The annual salary ~~so fixed~~ shall be the total compensation to be paid by the state to the
55 superior court judges and shall be in lieu of any and all other amounts to be paid from The
56 Council of Superior Court Judges of Georgia, except as provided in Code Sections
57 15-6-29.1, 15-6-30, and 15-6-32."

58 **SECTION 1-4.**

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

60 "15-6-29.1.

61 (a) Whenever a circuit has implemented a drug court division, mental health court
 62 division, or veterans court division, then on and after January 1, 2016, the state shall pay
 63 each superior court judge in such circuit an annual accountability court supplement of
 64 \$6,000.00. Such supplement shall be paid from state funds by The Council of Superior
 65 Court Judges of Georgia in equal monthly installments as regular compensation.

66 (b) When a local law provides for a salary to be paid based on a percentage of, total
 67 compensation for, or similar mathematical relationship to a superior court judge's salary,
 68 the accountability court salary supplement paid pursuant to this Code section shall not be
 69 included in the calculation of compensation to be paid by a county, municipality, or
 70 consolidated government.

71 (c) Notwithstanding subsection (c) of Code Section 15-6-29, on and after January 1, 2016,
 72 no county or counties comprising the circuit shall increase an aggregate county salary
 73 supplement paid to a superior court judge, if such supplement is \$50,000.00 or more."

74 **SECTION 1-5.**

75 Said title is further amended by revising Code Section 15-18-10, relating to compensation
 76 of district attorneys, as follows:

77 "15-18-10.

78 (a) Each district attorney shall receive an annual salary from state funds as prescribed by
 79 law. Such salary shall be paid as provided in Code Section Sections 15-18-10.1 and
 80 15-18-19.

81 (b) The county or counties comprising the judicial circuit may supplement the salary of
 82 the district attorney in such amount as is or may be authorized by local Act or in such
 83 amount as may be determined by the governing authority of such county or counties,
 84 whichever is greater.

85 (c) ~~All fees, fines, forfeitures, costs, and commissions formerly allowed district attorneys~~
 86 ~~for their services as district attorney or as solicitor of any other court shall become the~~
 87 ~~property of the county in which the services of the district attorney were rendered. The~~
 88 clerk of court shall collect any such fees, fines, forfeitures, costs, and emoluments and
 89 remit the same to the county treasury by the fifteenth day of each month.

90 (d) No district attorney receiving an annual salary under this Code section shall engage in
 91 the private practice of law."

92 **SECTION 1-6.**

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

94 "15-18-10.1.

95 (a) Whenever a circuit has implemented a drug court division, mental health court
 96 division, or veterans court division, then on and after January 1, 2016, the state shall pay
 97 the district attorney in such circuit an annual accountability court supplement of \$6,000.00.
 98 Such supplement shall be paid from state funds by the Prosecuting Attorneys' Council of
 99 the State of Georgia in equal monthly installments as regular compensation.

100 (b) Notwithstanding Code Sections 15-18-14 and 15-18-14.2, the accountability court
 101 salary supplement paid pursuant to this Code section shall not be included in any
 102 calculation of compensation paid to assistant district attorneys or victim assistance
 103 coordinators that is measured as a percentage of a district attorney's salary.

104 (c) When a local law provides for a salary to be paid based on a percentage of, total
 105 compensation for, or similar mathematical relationship to a district attorney's salary, the
 106 accountability court salary supplement paid pursuant to this Code section shall not be
 107 included in the calculation of compensation to be paid by a county, municipality, or
 108 consolidated government.

109 (d) Notwithstanding subsection (b) of Code Section 15-18-10 and Code Section 15-18-19,
 110 on or after January 1, 2016, no county or counties comprising the circuit shall increase an
 111 aggregate county salary supplement paid to the district attorney or a state-paid position
 112 appointed pursuant to this article, if such supplement is \$50,000.00 or more."

113 **SECTION 1-7.**

114 Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to
 115 public defenders, is amended by revising subsection (a) of Code Section 17-12-25, relating
 116 to the salary of the public defender, as follows:

117 "(a) Each circuit public defender shall receive an annual salary of ~~\$87,593.58~~ \$99,526.00,
 118 and cost-of-living adjustments may be given by the General Assembly in the General
 119 Appropriations Act by a percentage not to exceed the average percentage of the general
 120 increase in salary as may from time to time be granted to employees of the executive,
 121 judicial, and legislative branches of government; provided, however, that any increase for
 122 such circuit public defender shall not include within-grade step increases for which
 123 classified employees as defined by Code Section 45-20-2 are eligible. Any increase
 124 granted pursuant to this subsection shall become effective at the same time that funds are
 125 made available for the increase for such employees. The Office of Planning and Budget
 126 shall calculate the average percentage increase. Each circuit public defender may also be
 127 entitled to an accountability court salary supplement as set forth in Code Section
 128 17-12-25.1."

SECTION 1-8.

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

"17-12-25.1.

(a) Whenever a circuit has implemented a drug court division, mental health court division, or veterans court division, then on and after January 1, 2016, the state shall pay the circuit public defender in such circuit an annual accountability court supplement of \$6,000.00. Such supplement shall be paid from state funds by the Georgia Public Defender Standards Council in equal monthly installments as regular compensation.

(b) Notwithstanding Code Sections 17-12-27 and 17-12-28, the accountability court salary supplement paid pursuant to this Code section shall not be included in any calculation of compensation paid to assistant circuit public defenders or investigators that is measured as a percentage of a circuit public defender's salary.

(c) When a local law provides for a salary to be paid based on a percentage of, total compensation for, or similar mathematical relationship to a circuit public defender's salary, the accountability court salary supplement paid pursuant to this Code section shall not be included in the calculation of compensation to be paid by a county, municipality, or consolidated government.

(d) Notwithstanding subsection (b) of Code Section 17-12-25 and Code Section 17-12-30, on and after January 1, 2016, no county or counties comprising the circuit shall increase an aggregate county salary supplement paid to the circuit public defender or a state-paid position appointed pursuant to this article, if such supplement is \$50,000.00 or more."

SECTION 1-9.

Code Section 45-7-4 of the Official Code of Georgia Annotated, relating to annual salaries of certain state officials and cost-of-living adjustments, is amended by revising paragraphs (18) through (21) of subsection (a) as follows:

(18) Each Justice of the Supreme Court	<u>175,600.00</u>
	139,418.00
(19) Each Judge of the Court of Appeals	<u>174,500.00</u>
	138,556.00
(20) Each superior court judge	<u>126,265.00</u>
	99,862.00

~~Each superior court judge shall also receive any supplement paid to such judge by the county or counties of such judge's judicial circuit as may be provided for by law. Each superior court judge shall also receive reimbursement of travel expenses as provided by law.~~

161	(21) Each district attorney	<u>120,072.00</u>
		107,905.00

162 ~~Each district attorney shall also receive any supplement paid to such district~~
 163 ~~attorney by the county or counties of such district attorney's judicial circuit~~
 164 ~~as may be provided for by law. Each district attorney shall also receive~~
 165 ~~reimbursement of travel expenses as provided by law."~~

166 **PART II**

167 **SECTION 2-2.**

168 Code Section 15-6-2 of the Official Code of Georgia Annotated, relating to the number of
 169 judges of superior courts, is amended by revising paragraph (42) as follows:

170 "(42) Western Circuit 3 4"

171 **SECTION 2-2.**

172 One additional judge of the superior courts is added to the Western Judicial Circuit, thereby
 173 increasing to four the number of judges of said circuit.

174 **SECTION 2-3.**

175 Said additional judge shall be appointed by the Governor for a term beginning April 1, 2016,
 176 and continuing through December 31, 2018, and until his or her successor is elected and
 177 qualified. His or her successor shall be elected in the manner provided by law for the
 178 election of judges of the superior courts of this state at the nonpartisan judicial election in
 179 2018, for a term of four years beginning on January 1, 2019, and until his or her successor
 180 is elected and qualified. Future successors shall be elected at the nonpartisan judicial
 181 election each four years after such election for terms of four years and until their successors
 182 are elected and qualified. They shall take office on the first day of January following the date
 183 of the election.

184 **SECTION 2-4.**

185 The additional judge of the superior courts of the Western Judicial Circuit shall have and
 186 may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities of the
 187 present judges of the superior courts of this state. Any of the judges of the Western Judicial
 188 Circuit may preside over any cause, whether in their own or in other circuits, and perform
 189 any official act as judge thereof, including sitting on appellate courts as provided by law.

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SECTION 2-5.

The qualifications of such additional judge and his or her successors shall be the same as are now provided by law for all other superior court judges, and his or her compensation, salary, and expense allowance from the State of Georgia and from the counties comprising the Western Judicial Circuit shall be the same as are now provided by law for the other superior court judges of such circuit. The provisions, if any, enacted for the supplementation by the counties of such circuit of the salary of the judges of the superior courts of the Western Judicial Circuit shall also be applicable to the additional judge provided for by this Act.

SECTION 2-6.

All writs and processes in the superior courts of the Western Judicial Circuit shall be returnable to the terms of such superior courts as they are now fixed and provided by law, or as they may hereafter be fixed or determined by law, and all terms of such courts shall be held in the same manner as though there were but one judge, it being the intent and purpose of this Act to provide four judges equal in jurisdiction and authority to attend and perform the functions, powers, and duties of the judges of such superior courts and to direct and conduct all hearings and trials in such courts.

SECTION 2-7.

The chief judge shall be selected by majority vote of the judges of the superior courts of the Western Judicial Circuit. In the event of a tie vote, the judge nominated for the position most senior in point of service shall be the chief judge for the ensuing term. The term of the chief judge shall be for two years, or until the person serving as chief judge resigns the position or leave the court, whichever time is shorter. The chief judge shall be eligible to succeed himself or herself for one additional term.

SECTION 2-8.

Upon and after qualification of the additional judge of the superior courts of the Western Judicial Circuit, the four judges of such circuit may adopt, promulgate, amend, and enforce such rules of practice and procedure in consonance with the Constitution and laws of the State of Georgia as they deem suitable and proper for the effective transaction of the business of the court; and, in transacting the business of the court and in performing their duties and responsibilities, they shall share, divide, and allocate the work and duties to be performed by each. In the event of a disagreement among the judges in respect hereof, the decision of the chief judge shall be controlling. The four judges of the superior courts of the Western Judicial Circuit shall have and are clothed with full power, authority, and discretion to determine from time to time and term to term the manner of calling the dockets, fixing the

224 calendars, and order of business in such courts. They may assign to one of such judges the
225 hearing of trials by jury for a term and the hearing of all other matters not requiring a trial
226 by jury to the other judges, and they may rotate such order of business at the next term. They
227 may conduct trials by jury at the same time in the same county or otherwise within such
228 circuit, or they may hear chambers business and motion business at the same time at any
229 place within such circuit. They may provide in all respects for holding the superior courts
230 of such circuit so as to facilitate the hearing and determination of all the business of such
231 courts at any time pending and ready for trial or hearing. In all such matters relating to the
232 fixing, arranging for, and disposing of the business of such courts and making appointments
233 as authorized by law where the judges thereof cannot agree or shall differ, the opinion or
234 order of the chief judge as provided for in this Act shall control.

235 **SECTION 2-9.**

236 The drawing and impaneling of all jurors, whether grand, petit, or special, may be by any of
237 the judges of the superior courts of such circuit; and they, or any one of them, shall have full
238 power and authority to draw and impanel jurors for service in such courts so as to have jurors
239 for the trial of cases before any of such judges separately or before each of them at the same
240 time.

241 **SECTION 2-10.**

242 The four judges of the superior courts of the Western Judicial Circuit shall be authorized and
243 empowered to appoint an additional court reporter for such circuit, whose compensation shall
244 be as now or hereafter provided by law.

245 **SECTION 2-11.**

246 All writs, processes, orders, subpoenas, and any other official paper issuing out of the
247 superior courts of the Western Judicial Circuit may bear teste in the name of any judge of the
248 Western Judicial Circuit and, when issued by and in the name of any judge of such circuit,
249 shall be fully valid and may be heard and determined before the same or any other judge of
250 such circuit. Any judge of such circuit may preside over any case therein and perform any
251 official act as judge thereof.

252 **SECTION 2-12.**

253 Upon request of any judge of the circuit, the governing authorities of the counties comprising
254 the Western Judicial Circuit shall be authorized to furnish the judges of such circuit with
255 suitable courtrooms and facilities, office space, telephones, furniture, office equipment,
256 supplies, and such personnel as may be considered necessary by the court to the proper

257 function of the court. All of the expenditures authorized in this Act are declared to be an
258 expense of the court and payable out of the county treasury as such.

259 **SECTION 2-13.**

260 Nothing in this part shall be deemed to limit or restrict the inherent powers, duties, and
261 responsibilities of superior court judges provided by the Constitution and statutes of the State
262 of Georgia.

263 **PART III**

264 **SECTION 3-1.**

265 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
266 Chapter 22, currently designated as reserved, as follows:

267 "CHAPTER 22

268 15-22-1.

269 (a) There is created the Judicial, District Attorney, and Circuit Public Defender
270 Compensation Commission for the purpose of conducting periodic comprehensive reviews
271 of all aspects of compensation paid to justices, judges, district attorneys, and circuit public
272 defenders.

273 (b) As used in this chapter, the term 'commission' means the Judicial, District Attorney,
274 and Circuit Public Defender Compensation Commission.

275 15-22-2.

276 (a) The commission shall consist of five members. The Governor shall appoint two citizen
277 members, one of whom shall have experience in executive compensation who is not an
278 attorney. The Chief Justice of the Supreme Court shall appoint one member who shall be
279 currently serving or be retired from serving as a judge or justice in this state. The
280 Lieutenant Governor and the Speaker of the House of Representatives shall each appoint
281 one member, neither of whom shall be attorneys. The chairperson of the Senate
282 Appropriations Committee and the chairperson of the House Committee on Appropriations
283 shall serve as ex officio nonvoting members of the commission.

284 (b) Each member of the commission shall be appointed to serve for a term of four years
285 or until his or her successor is duly appointed. A member may be appointed to succeed
286 himself or herself on the commission. If a member of the commission is an elected or

287 appointed official, the member shall be removed from the commission if the member no
288 longer serves as such elected or appointed official.

289 (c) Vacancies on the commission shall be filled by appointment in the same manner as the
290 original appointment. An appointment to fill a vacancy, other than by expiration of a term
291 of office, shall be for the balance of the unexpired term.

292 (d) The Governor shall designate the chairperson of the commission. The commission
293 may elect other officers as it deems necessary. The chairperson of the commission may
294 designate and appoint committees from among the membership of the commission as well
295 as appoint other persons to perform such functions as he or she may determine to be
296 necessary as relevant to and consistent with this chapter. The chairperson shall only vote
297 to break a tie.

298 (e) The commission shall be attached for administrative purposes only to the Criminal
299 Justice Coordinating Commission. The Criminal Justice Coordinating Commission shall
300 provide staff support for the commission and shall use any funds specifically appropriated
301 to it to support the work of the commission.

302 15-22-3.

303 (a) The commission may conduct meetings at such places and times as it deems necessary
304 or convenient to enable it to exercise fully and effectively its powers, perform its duties,
305 and accomplish the objectives and purposes of this chapter. The commission shall hold
306 meetings at the call of the chairperson. The commission shall meet not less than twice
307 every year.

308 (b) A quorum for transacting business shall be a majority of the members of the
309 commission.

310 (c) Any legislative members of the commission shall receive the allowances provided for
311 in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the
312 amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or
313 transportation allowance authorized for state employees. Members of the commission who
314 are state officials, other than legislative members, or state employees shall receive no
315 compensation for their services on the commission, but they shall be reimbursed for
316 expenses incurred by them in the performance of their duties as members of the
317 commission in the same manner as they are reimbursed for expenses in their capacities as
318 state officials or state employees. The funds necessary for the reimbursement of the
319 expenses of state officials, other than legislative members, and state employees shall come
320 from funds appropriated to or otherwise available to their respective departments. All other
321 funds necessary to carry out this subsection shall come from funds appropriated to the
322 Senate and the House of Representatives.

323 15-22-4.

324 (a) The commission shall have the following duties:

325 (1) To review the conditions, needs, issues, and problems related to the efficient use of
326 resources and caseload balance of the justice system in this state and the compensation
327 paid to justices, judges, district attorneys, and circuit public defenders; issue a report on
328 the same to the executive counsel of the Governor, the Office of Planning and Budget,
329 and the chairpersons of the House Committee on Appropriations, the Senate
330 Appropriations Committee, the House Committee on Judiciary, and the Senate Judiciary
331 Committee; and recommend any action or proposed legislation which the commission
332 deems necessary or appropriate. Nothing contained in the commission's report shall be
333 considered to authorize or require a change in any law without action by the General
334 Assembly. The commission shall issue its first report on or before December 15, 2015,
335 its second report on or before December 15, 2016, and thereafter at least every two years;
336 and

337 (2) To evaluate and consider:

338 (A) Whether the compensation structure of this state is adequate to ensure that the most
339 highly qualified attorneys in this state, drawn from diverse life and professional
340 experiences, are not deterred from serving or continuing to serve in the state judiciary,
341 as district attorneys, and as circuit public defenders and do not become demoralized
342 during service because of compensation levels;

343 (B) The compensation paid as a county supplement to judges, district attorneys, circuit
344 public defenders, and other staff associated with the courts;

345 (C) The caseload demands of judicial officers, prosecuting attorneys, and public
346 defenders and the allocation of such officials, including staffing resources and
347 jurisdictional structure;

348 (D) The skill and experience required of the particular judgeships or attorney positions
349 at issue;

350 (E) The time required of the particular judgeships or attorney positions at issue;

351 (F) The value of compensable service performed by justices and judges, district
352 attorneys, and circuit public defenders as determined by reference to compensation in
353 other states and the federal government;

354 (G) The value of comparable service performed in the private sector, including private
355 judging, arbitration, and mediation, based on the responsibility and discretion required
356 in the particular judgeship at issue and the demand for those services in the private
357 sector;

358 (H) The compensation of attorneys in the private sector;

359 (I) The Consumer Price Index and changes in such index;

360 (J) The overall compensation presently received by other public officials and
 361 employees; and

362 (K) Any other factors that are normally or traditionally taken into consideration in the
 363 determination of compensation.

364 (b) The commission shall have the following powers:

365 (1) To make findings, conclusions, and recommendations as to the proper salary and
 366 benefits for all justices and judges, district attorneys, and circuit public defenders of this
 367 state;

368 (2) To make findings, conclusions, and recommendations as to the efficient use of
 369 resources and caseload balance of the justice system in this state;

370 (3) To request and receive data from and review the records of appropriate state
 371 agencies, local governments, and courts to the greatest extent allowed by state and federal
 372 law;

373 (4) To accept public or private grants, devises, and bequests;

374 (5) To authorize entering into contracts or agreements through the commission's
 375 chairperson necessary or incidental to the performance of its duties;

376 (6) To establish rules and procedures for conducting the business of the commission; and

377 (7) To conduct studies, hold public meetings, collect data, or take any other action the
 378 commission deems necessary to fulfill its responsibilities.

379 (c) The commission shall be authorized to retain the services of attorneys, consultants,
 380 subject matter experts, economists, budget analysts, data analysts, statisticians, and other
 381 individuals or organizations as determined appropriate by the commission.

382 15-22-5.

383 This chapter shall be repealed effective June 30, 2020, unless continued in effect by the
 384 General Assembly prior to that date."

385 **PART IV**

386 **SECTION 4-1.**

387 (a) Except as provided in subsections (b) and (c) of this section, this Act shall become
 388 effective upon its approval by the Governor or upon its becoming law without such approval.

389 (b)(1) Part I of this Act shall become effective only if funds are appropriated for
 390 purposes of Part I of this Act in an appropriations Act enacted at the 2015 regular session
 391 of the General Assembly.

392 (2) If funds are so appropriated, then Part I of this Act shall become effective on January
 393 1, 2016.

394 (3) If funds are not so appropriated, then Part I of this Act shall not become effective and
395 shall stand repealed on July 1, 2015.

396 (c)(1) For purposes of making the initial appointments of the judge to fill the superior
397 court judgeship created by Part II of this Act, Part II of this Act shall become effective
398 upon its approval by the Governor or its becoming law without such approval.

399 (2) For all other purposes, Part II of this Act shall become effective on April 1, 2016.

400 **SECTION 4-2.**

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