

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS55248-LL-178 (3/12)

Short Title: Public Defenders/Judicial Retirement System. (Public)

Sponsors: Senators Atwater, and Rand.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCLUDE PUBLIC DEFENDERS AS MEMBERS OF THE
3 CONSOLIDATED JUDICIAL RETIREMENT SYSTEM.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 135-50(b) reads as rewritten:

6 "(b) The purpose of this Article is to improve the administration of justice by
7 attracting and retaining the most highly qualified talent available within the State to the
8 positions of justice and judge, district attorney and solicitor, public defender, and clerk
9 of superior court, within the General Court of Justice."

10 **SECTION 2.** G.S. 135-51 reads as rewritten:

11 "**§ 135-51. Scope.**

12 (a) This Article provides consolidated retirement benefits for all justices and
13 judges, district attorneys, and solicitors who are serving on January 1, 1974, and who
14 become such thereafter; and for all clerks of superior court who are so serving on
15 January 1, 1975, and who become such ~~thereafter~~ after that date; and for all public
16 defenders who are serving on July 1, 2007, and who become public defenders after that
17 date.

18 (b) For justices and judges of the appellate and superior court divisions of the
19 General Court of Justice who so served prior to January 1, 1974, the provisions of this
20 Article supplement and, under certain circumstances, replace the provisions of Articles
21 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

22 For district attorneys and judges of the district court of the General Court of Justice
23 who so served prior to January 1, 1974, the provisions of this Article supplement and,
24 under certain circumstances, replace the provisions of Article 1 of this Chapter.

25 For clerks of superior court of the General Court of Justice who so served prior to
26 January 1, 1975, the provisions of this Article supplement and, under certain
27 circumstances, replace the provisions of Article 1 of this Chapter.

1 (c) The retirement benefits of any person who becomes a justice or judge, district
2 attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after
3 January 1, 1975, or public defender on or after July 1, 2007, shall be determined solely
4 in accordance with the provisions of this Article."

5 **SECTION 3.** G.S. 135-53 reads as rewritten:

6 **"§ 135-53. Definitions.**

7 The following words and phrases as used in this Article, unless a different meaning
8 is plainly required by the context, shall have the following meanings:

9 (1) "Accumulated contributions" with respect to any member shall mean
10 the sum of all the amounts deducted from the compensation of the
11 member pursuant to G.S. 135-68 since he last became a member and
12 credited to his account in the annuity savings fund, plus any amount
13 standing to his credit pursuant to G.S. 135-67(c) as a result of a prior
14 period of membership, plus any amounts credited to his account
15 pursuant to G.S. 135-28.1(b) or 135-56(b), together with regular
16 interest on all such amounts computed as provided in G.S. 135-7(b).

17 (2) "Actuarial equivalent" shall mean a benefit of equal value when
18 computed upon the bases of such mortality tables as shall be adopted
19 by the Board of Trustees, and regular interest.

20 (2a) "Average final compensation" shall mean the average annual
21 compensation of a member during the 48 consecutive calendar months
22 of membership service producing the highest such average.

23 (3) "Beneficiary" shall mean any person in receipt of a retirement
24 allowance or other benefit as provided in this Article.

25 (4) "Board of Trustees" shall mean the Board of Trustees established by
26 G.S. 135-6.

27 (4a) "Clerk of superior court" shall mean the clerk of superior court
28 provided for in G.S. 7A-100(a).

29 (5) "Compensation" shall mean all salaries and wages derived from public
30 funds which are earned by a member of the Retirement System for his
31 service as a justice or judge, or district attorney, or clerk of superior
32 ~~court.~~ court, or public defender.

33 (6) "Creditable service" shall mean for any member the total of his prior
34 service plus his membership service.

35 (6a) "District attorney" shall mean the district attorney or solicitor provided
36 for in G.S. 7A-60.

37 (7) "Filing" when used in reference to an application for retirement shall
38 mean the receipt of an acceptable application on a form provided by
39 the Retirement System.

40 (8) "Final compensation" shall mean for any member the annual
41 equivalent of the rate of compensation most recently applicable to him.

42 (9) "Judge" shall mean any justice or judge of the General Court of Justice
43 and the administrative officer of the courts.

- 1 (10) "Medical board" shall mean the board of physicians provided for in
2 G.S. 135-6.
- 3 (11) "Member" shall mean any person included in the membership of the
4 Retirement System as provided in this Article.
- 5 (12) "Membership service" shall mean service as a judge, district attorney,
6 ~~or~~ clerk of superior ~~court~~ court, or public defender rendered while a
7 member of the Retirement System.
- 8 (13) "Previous system" shall mean, with respect to any member, the
9 retirement benefit provisions of Article 6 and Article 8 of Chapter 7A
10 of the General Statutes, to the extent that such Article or Articles were
11 formerly applicable to the member, and in the case of judges of the
12 district court division, ~~and~~ district attorney, public defender, and clerk
13 of superior court of the General Court of Justice, the Teachers' and
14 State Employees' Retirement System.
- 15 (14) "Prior service" shall mean service rendered by a member, prior to his
16 membership in the Retirement System, for which credit is allowable
17 under G.S. 135-56.
- 18 (14a) "Public defender" means a public defender provided for in
19 G.S. 7A-498.7 and the appellate defender provided for in
20 G.S. 7A-498.8.
- 21 (15) "Regular interest" shall mean interest compounded annually at such a
22 rate as shall be determined by the Board of Trustees in accordance
23 with G.S. 135-7(b).
- 24 (16) "Retirement" shall mean the withdrawal from active service with a
25 retirement allowance granted under the provisions of this Chapter. In
26 order for a member's retirement to become effective in any month, the
27 member must render no service at any time during that month.
- 28 (17) "Retirement allowance" shall mean the periodic payments to which a
29 beneficiary becomes entitled under the provisions of this Article.
- 30 (18) "Retirement System" shall mean the "Consolidated Judicial Retirement
31 System" of North Carolina, as established in this Article.
- 32 (19) "Year" as used in this Article shall mean the regular fiscal year
33 beginning July 1 and ending June 30 in the following calendar year,
34 unless otherwise defined by regulation of the Board of Trustees."

35 **SECTION 4.** G.S. 135-54 reads as rewritten:

36 **"§ 135-54. Name and date of establishment.**

37 A Retirement System is hereby established and placed under the management of the
38 Board of Trustees for the purpose of providing retirement allowances and other benefits
39 under the provisions of this Article for justices and judges, district attorneys, public
40 defenders, and clerks of superior court of the General Court of Justice of North
41 Carolina, and their survivors. The Retirement System so created shall be established as
42 of January 1, 1974.

1 The Retirement System shall have the power and privileges of a corporation and
2 shall be known as the "Consolidated Judicial Retirement System of North Carolina,"
3 and by such name all of its business shall be transacted."

4 **SECTION 5.** G.S. 135-55 reads as rewritten:

5 "**§ 135-55. Membership.**

6 (a) The membership of the Retirement System shall consist of:

7 (1) All judges and district attorneys in office on January 1, 1974;

8 (2) All persons who become judges and district attorneys or reenter
9 service as judges and district attorneys after January 1, 1974;

10 (3) All clerks of superior court in office on January 1, 1975; ~~and~~

11 (4) All persons who become clerks of superior court or reenter service as
12 clerks of superior court after January 1, ~~1975;~~ 1975;

13 (5) All public defenders in office on July 1, 2007; and

14 (6) All persons who become public defenders or reenter service as public
15 defenders after July 1, 2007.

16 (b) The membership of any person in the Retirement System shall cease upon:

17 (1) The withdrawal of his accumulated contributions after he is no longer
18 a judge, district ~~attorney~~ attorney, public defender, or clerk of superior
19 court, or

20 (2) His retirement under the provisions of the Retirement System, or

21 (3) His death."

22 **SECTION 6.** G.S. 135-58(a4) reads as rewritten:

23 "(a4) Any member who retires under the provisions of G.S. 135-57(a) or
24 G.S. 135-57(c) on or after January 1, 2004, but before July 1, 2007, after the member
25 has either attained the member's 65th birthday or has completed 24 years or more of
26 creditable service, shall receive an annual retirement allowance, payable monthly,
27 which shall commence on the effective date of the member's retirement and shall be
28 continued on the first day of each month thereafter during the member's lifetime, the
29 amount of which shall be computed as the sum of the amounts in subdivisions (1), (2),
30 (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance
31 payable to any member be greater than an amount which, when added to the allowance,
32 if any, to which the member is entitled under the Teachers' and State Employees'
33 Retirement System, the Legislative Retirement System, or the Local Governmental
34 Employees' Retirement System (prior in any case to any reduction for early retirement
35 or for an optional mode of payment), would total three-fourths of the member's final
36 compensation:

37 (1) Four and two hundredths percent (4.02%) of the member's final
38 compensation, multiplied by the number of years of creditable service
39 rendered as a justice of the Supreme Court or judge of the Court of
40 Appeals;

41 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
42 compensation, multiplied by the number of years of creditable service
43 rendered as a judge of the superior court or as Administrative Officer
44 of the Courts;

- 1 (3) Three and two hundredths percent (3.02%) of the member's final
2 compensation, multiplied by the number of years of creditable service
3 rendered as a judge of the district court, district attorney, or clerk of
4 superior court;
- 5 (4) A service retirement allowance computed in accordance with the
6 service retirement provisions of Article 3 of Chapter 128 of the
7 General Statutes using an average final compensation as defined in
8 G.S. 135-53(2a) and creditable service equal to the number of years of
9 the member's creditable service that was transferred from the Local
10 Governmental Employees' Retirement System to this System as
11 provided in G.S. 135-56; and
- 12 (5) A service retirement allowance computed in accordance with the
13 service retirement provisions of Article 1 of this Chapter of the
14 General Statutes using an average final compensation as defined in
15 G.S. 135-53(2a) and creditable service, including any sick leave
16 standing to the credit of the member, equal to the number of years of
17 the member's creditable service that was transferred from the Teachers'
18 and State Employees' Retirement System or the Legislative Retirement
19 System to this System as provided in G.S. 135-56."

20 **SECTION 7.** G.S. 135-58 is amended by adding a new subsection to read:

21 "(a5) Any member who retires under the provisions of G.S. 135-57(a) or
22 G.S. 135-57(c) on or after July 1, 2007, after the member has either attained the
23 member's 65th birthday or has completed 24 years or more of creditable service, shall
24 receive an annual retirement allowance, payable monthly, which shall commence on the
25 effective date of the member's retirement and shall be continued on the first day of each
26 month thereafter during the member's lifetime, the amount of which shall be computed
27 as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection,
28 provided that in no event shall the annual allowance payable to any member be greater
29 than an amount which, when added to the allowance, if any, to which the member is
30 entitled under the Teachers' and State Employees' Retirement System, the Legislative
31 Retirement System, or the Local Governmental Employees' Retirement System (prior in
32 any case to any reduction for early retirement or for an optional mode of payment),
33 would total three-fourths of the member's final compensation:

- 34 (1) Four and two hundredths percent (4.02%) of the member's final
35 compensation, multiplied by the number of years of creditable service
36 rendered as a justice of the Supreme Court or judge of the Court of
37 Appeals;
- 38 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
39 compensation, multiplied by the number of years of creditable service
40 rendered as a judge of the superior court or as Administrative Officer
41 of the Courts;
- 42 (3) Three and two hundredths percent (3.02%) of the member's final
43 compensation, multiplied by the number of years of creditable service

- 1 rendered as a judge of the district court, district attorney, clerk of
2 superior court, or public defender;
3 (4) A service retirement allowance computed in accordance with the
4 service retirement provisions of Article 3 of Chapter 128 of the
5 General Statutes using an average final compensation as defined in
6 G.S. 135-53(2a) and creditable service equal to the number of years of
7 the member's creditable service that was transferred from the Local
8 Governmental Employees' Retirement System to this System as
9 provided in G.S. 135-56; and
10 (5) A service retirement allowance computed in accordance with the
11 service retirement provisions of Article 1 of this Chapter using an
12 average final compensation as defined in G.S. 135-53(2a) and
13 creditable service, including any sick leave standing to the credit of the
14 member, equal to the number of years of the member's creditable
15 service that was transferred from the Teachers' and State Employees'
16 Retirement System or the Legislative Retirement System to this
17 System as provided in G.S. 135-56."

18 **SECTION 8.** This act becomes effective July 1, 2007.