

SENATE GA COMMITTEE SUBSTITUTE FOR SB351

SYNOPSIS: Under existing law, retired justices and judges may be called to active duty status and are compensated for their service.

This bill would revise the compensation retired justices and judges receive for their service.

This bill would also provide for technical changes.

A BILL
TO BE ENTITLED
AN ACT

Related to retired justices and judges; to amend Sections 12-18-10 and 12-18-61, Code of Alabama 1975, to revise the compensation received by retired justices and judges who are called to active duty; and to provide for technical changes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 12-18-10 and 12-18-61, Code of
2 Alabama 1975, are amended to read as follows:

3 "§12-18-10.

4 "(a) The retirement benefit payable to a justice of
5 the Supreme Court or judge of one of the courts of appeals
6 retiring pursuant to subdivision (2), (3), (4), or (5) of
7 subsection (a) of Section 12-18-6 shall be 75 percent of the
8 salary prescribed by law for the position from which he or she
9 retires, payable monthly for the rest of his or her life. ~~Such~~
10 The benefit shall continue to be 75 percent of his or her
11 salary prescribed by law for ~~such~~ the position and shall
12 change in amount as ~~such~~ the salary is hereafter increased or
13 decreased by law and shall not be subject to writs of
14 attachment or garnishment.

15 "(b) The retirement benefit payable to a judge of a
16 circuit court retiring pursuant to subdivision (2), (3), (4), or
17 or (5) of subsection (b) of Section 12-18-6 shall be 75
18 percent of the salary prescribed by law of the salary payable
19 from the State Treasury to circuit judges. ~~Such~~ The retirement
20 benefits shall be payable monthly for the life of the
21 beneficiary and shall continue to be 75 percent of the salary
22 then prescribed by law for the respective position and shall
23 change in amount as such salary is hereafter increased or
24 decreased by law and shall not be subject to writs of
25 attachment or garnishment.

26 "(c) After the death of any justice or judge who ~~had~~
27 held office for a minimum of five years, his or her spouse

1 shall receive a yearly benefit equivalent to three percent of
2 the salary payable from the State Treasury prescribed by law
3 for his or her former position as either a justice or judge,
4 ~~as the case may be~~, for each year of service, not to exceed 30
5 percent of ~~such~~ the salary, payable monthly for the remainder
6 of ~~such~~ the spouse's life or until his or her remarriage, and
7 ~~such~~ the benefit shall change in amount as ~~such~~ the salary is
8 hereafter increased or decreased by law.

9 "(d) Any justice or judge retiring pursuant to
10 subdivision (1) of subsection (a) or subdivision (1) of
11 subsection (b) of Section 12-8-6 who has served for 10 years
12 shall be entitled to a disability benefit allowance payable
13 monthly from the Judicial Retirement Fund equal to 75 percent
14 of the salary payable from the State Treasury for the position
15 ~~he~~ held at the time he or she retires. If ~~such~~ the disabled
16 justice or judge has served less than 10 years, he or she
17 shall be entitled to receive a monthly disability benefit that
18 is equal to 25 percent of the salary payable from the State
19 Treasury for the position ~~he~~ held at the time he or she
20 retires plus 10 percent of ~~such~~ the salary for each year of
21 service in excess of five years; provided, however, that in no
22 event shall ~~such~~ a justice or judge receive less than 30
23 percent of the annual salary being paid to a full-time justice
24 or judge, ~~as the case may be~~, from the State Treasury.

25 "(e) (1) Every justice of the Supreme Court, judge of
26 a court of appeals, or judge of a circuit court who has
27 retired pursuant to this article or Article VII of this

1 chapter may, on the request of the Chief Justice, the
2 presiding judge of a court of appeals or the Governor, be
3 called to interim active duty status. ~~and, when~~ When serving
4 with the Supreme Court or courts of appeals, he or she shall
5 perform ~~such~~ the duties as may be prescribed by the Chief
6 Justice or the presiding judge of the court of appeals ~~with~~
7 ~~which~~ where he or she is serving. ~~and, when~~ When serving in a
8 circuit court, he or she shall perform ~~such~~ the duties as may
9 be prescribed by the presiding judge in the circuit.

10 " (2) ~~Such~~ A retired justice or judge of a court of
11 appeals ~~in such active service status~~ who is called to interim
12 active duty status shall receive ~~an~~ additional ~~sum~~
13 compensation during the term of ~~such~~ service ~~which, when added~~
14 ~~to his retirement benefits, would amount to \$250.00 per month~~
15 ~~less than the monthly salary paid a justice or judge of the~~
16 ~~appellate court from which he has retired~~ in an amount not to
17 exceed 25 percent of the salary the judge was making at the
18 time of his or her retirement. ~~The salary paid a retired~~
19 ~~circuit judge called to active service with the Supreme Court~~
20 ~~or a court of appeals shall be the salary paid a circuit judge~~
21 ~~in the circuit from which said judge retired. The salary paid~~
22 ~~a retired circuit judge called to active service as a circuit~~
23 ~~judge shall be the salary paid a regular judge in the circuit~~
24 ~~to which he is assigned or in the circuit from which he~~
25 ~~retired, whichever is greater. In no event, however, shall the~~
26 ~~total compensation paid to a retired circuit judge on active~~
27 ~~status during any calendar year exceed a sum which is~~

1 ~~\$1,000.00 less than the compensation received by a regular~~
2 ~~judge in the circuit from which such judge retired.~~

3 "(3) A retired circuit judge who is called to
4 interim active duty status shall receive additional
5 compensation during the term of service in an amount not to
6 exceed 25 percent of the salary the judge was making at the
7 time of his or her retirement.

8 "(4) A retired circuit judge may only be called to
9 interim active duty status when the presiding judge requests
10 the appointment of the interim judge, where the Chief Justice
11 and Administrative Office of Courts certify that the circuit
12 where the judge will serve is needed pursuant to the most
13 recent weighted caseload study, and the presiding circuit
14 judge in the circuit where the judge will serve concurs that
15 the circuit's caseload requires the service of the interim
16 active judge. Notwithstanding any other provision of law, in
17 order for the judge to continue in interim active duty status,
18 the certification required in this subdivision must be made
19 and re-certified annually on the anniversary that the interim
20 judge is called into service.

21 ~~"Whenever a retired justice or judge of a court of~~
22 ~~appeals is serving in a circuit court, he shall receive~~
23 ~~compensation equal to that due the regular judge of that~~
24 ~~circuit for the performance of such duties, such compensation~~
25 ~~to be paid in the same manner as the compensation of the~~
26 ~~regular circuit judge is paid; and, whenever a retired justice~~
27 ~~or a judge of a court of appeals is serving as an active~~

1 ~~member on the Supreme Court or on one of the courts of~~
2 ~~appeals, then he shall be entitled to receive, during the time~~
3 ~~of such service, compensation equal to that due a regular~~
4 ~~justice or judge for the performance of such duties, such~~
5 ~~compensation to be paid in the same manner as the compensation~~
6 ~~of a regular justice or judge is paid.~~

7 ~~"A retired justice or judge of one of the courts of~~
8 ~~appeals or circuit judge, while serving with the Supreme Court~~
9 ~~or one of the courts of appeals for reasons other than the~~
10 ~~absence or disqualification of a justice or judge, shall~~
11 ~~perform such duties as may be prescribed by the Chief Justice~~
12 ~~when serving with the Supreme Court, or as prescribed by the~~
13 ~~presiding judge of the court of appeals with which he may be~~
14 ~~serving.~~

15 "(f) The Chief Justice, with the advice of the
16 Supreme Court, ~~or~~ the presiding judge of a court of appeals,
17 or the presiding judge of the applicable circuit, with the
18 advice of the court over which he or she presides, shall
19 determine whether ~~such~~ a retired justice or judge is
20 satisfactorily performing ~~his~~ the assigned duties. Upon
21 determination that ~~such~~ the retired justice or judge is not
22 satisfactorily performing ~~such~~ the duties, ~~such~~ the retired
23 justice or judge shall immediately be removed from active
24 status, and ~~his~~ the additional active duty compensation shall
25 be stopped.

26 "(g) Except as provided in subdivision (e) (4) or
27 ~~subsection (f) of this section,~~ a retired justice or judge

1 shall hold office as ~~such~~ an additional or extra judge during
2 good behavior and may be removed only for causes specified in
3 the constitution. ~~Such~~ Any retired justices or judges may,
4 ~~however, but subject to the approval of the Chief Justice,~~ be
5 transferred to inactive status, upon request for ~~such~~ the
6 transfer, subject to the approval of the Chief Justice.
7 Justices or judges who revert to inactive status shall be
8 entitled to the same retirement benefits prescribed in
9 subsections (a) and (b) for justices and judges who have
10 retired.

11 "(h) Nothing contained in this section or hereafter
12 shall limit the power and authority of the Chief Justice to
13 transfer a retired justice or judge from inactive status to
14 active status or from active status to inactive status as the
15 public interest in his or her judgment requires.

16 "(i) The Administrative Office of Courts shall adopt
17 rules for nominations to the Chief Justice and duties assigned
18 to interim active duty status justices and judges.

19 "§12-18-61.

20 "(a) Any district judge who has retired pursuant to
21 this article or Article VII of this chapter may be called by
22 the Chief Justice to ~~temporary~~ interim active duty status in
23 any court.

24 "~~The salary paid a retired district judge called to~~
25 ~~active duty shall be the salary paid a district judge in the~~
26 ~~district from which said district judge retired or the salary~~
27 ~~paid a resident district court judge in the district to which~~

1 ~~the judge is assigned, whichever is greater. In no event,~~
2 ~~however, shall the total compensation paid to a retired~~
3 ~~district judge on active duty during any calendar year exceed~~
4 ~~a sum which is \$1,000.00 less than the compensation received~~
5 ~~by a regular judge in the district from which said judge is~~
6 ~~retired~~ (b) (1) A retired judge who is called to interim active
7 duty status shall receive additional compensation, during the
8 term of service, in an amount not to exceed 25 percent of the
9 salary the judge was making at the time of his or her
10 retirement.

11 "(2) A retired district judge may only be called to
12 interim active duty status when the presiding judge requests
13 the appointment of the interim judge, where the Chief Justice
14 and Administrative Office of Courts certify that the circuit
15 where the judge will serve is needed pursuant to the most
16 recent weighted caseload study, and the presiding circuit
17 judge in the circuit where the judge will serve concurs that
18 the circuit's caseload requires the service of the interim
19 active judge. Notwithstanding any other provision of law, in
20 order for the judge to continue in interim active duty status,
21 the certification required in this subdivision must be made
22 and re-certified annually on the anniversary that the interim
23 judge is called into service.

24 ~~"Such active duty may be terminated by order of the~~
25 ~~Chief Justice at any time."~~

26 "(c) The Chief Justice, with the advice of the
27 Supreme Court, the presiding judge of a court of appeals, or

1 the presiding judge of the applicable circuit, with the advice
2 of the court over which he or she presides, shall determine
3 whether a retired judge is satisfactorily performing the
4 assigned duties. Upon determination that the retired judge is
5 not satisfactorily performing the duties, the retired judge
6 shall immediately be removed from active duty status, and the
7 additional active duty compensation shall cease.

8 "(d) Except as provided in subdivision (b) (2) or
9 subsection (c), a retired judge shall hold office as an
10 additional or extra judge during good behavior and may be
11 removed only for causes specified in the constitution. Any
12 retired judges may be transferred to inactive status, upon
13 request for the transfer, subject to the approval of the Chief
14 Justice. Judges who revert to inactive status shall be
15 entitled to the same retirement benefits prescribed pursuant
16 to this chapter.

17 "(e) Nothing contained in this section shall limit
18 the power and authority of the Chief Justice to transfer a
19 retired judge from inactive status to active status or from
20 active status to inactive status as the public interest in his
21 or her judgment requires.

22 "(f) The Administrative Office of Courts shall adopt
23 rules for nominations to the Chief Justice and duties assigned
24 to interim active duty status justices and judges."

25 Section 2. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

