

HB40 ENROLLED



1 2J36KK-3
2 By Representative Hill
3 RFD: Ways and Means General Fund
4 First Read: 07-Mar-23
5 2023 Regular Session



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1 Enrolled, An Act,

2
3 Relating to retired justices and judges; to amend
4 Sections 12-18-10 and 12-18-61, Code of Alabama 1975, to
5 revise the compensation received by retired justices and
6 judges who are called to active duty; to require retired
7 justices and judges be paid per diem and mileage and be
8 provided court-supportive personnel; to require continuing
9 legal education annually; and to make nonsubstantive,
10 technical revisions to update the existing code language to
11 current style.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§12-18-10

16 (a) The retirement benefit payable to a justice of the
17 Supreme Court or judge of one of the courts of appeals
18 retiring pursuant to ~~subdivision (2), (3), (4) or (5) of~~
19 ~~subsection (a) of~~ Section 12-18-6 (a) (2), (3), (4), or (5)
20 shall be 75 percent of the salary prescribed by law for the
21 position from which he or she retires, payable monthly for the
22 rest of his or her life. ~~Such~~ The benefit shall continue to be
23 75 percent of his or her salary prescribed by law for ~~such~~ the
24 position and shall change in amount as ~~such~~ the salary is
25 ~~hereafter~~ increased or decreased by law and ~~shall~~ may not be
26 subject to writs of attachment or garnishment.

27 (b) The retirement benefit payable to a judge of a
28 circuit court retiring pursuant to ~~subdivision (2), (3), (4)~~

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29 ~~or (5) of subsection (b) of~~ Section 12-18-6 (b) (2), (3), (4),
30 or (5) shall be 75 percent of the salary prescribed by law of
31 the salary payable from the State Treasury to circuit judges.
32 ~~Such~~The retirement benefits shall be payable monthly for the
33 life of the beneficiary and shall continue to be 75 percent of
34 the salary then prescribed by law for the respective position
35 and shall change in amount as ~~such the~~ salary is ~~hereafter~~
36 increased or decreased by law and ~~shall may~~ not be subject to
37 writs of attachment or garnishment.

38 (c) After the death of any justice or judge who ~~had~~
39 held office for a minimum of five years, his or her spouse
40 shall receive a yearly benefit equivalent to three percent of
41 the salary payable from the State Treasury prescribed by law
42 for his or her former position as either a justice or judge,
43 ~~as the case may be~~, for each year of service, not to exceed 30
44 percent of ~~such the~~ salary, payable monthly for the remainder
45 of ~~such the~~ spouse's life or until his or her remarriage, and
46 ~~such the~~ benefit shall change in amount as ~~such the~~ salary is
47 ~~hereafter~~ increased or decreased by law.

48 (d) Any justice or judge retiring pursuant to
49 ~~subdivision (1) of subsection (a) or subdivision (1) of~~
50 ~~subsection (b) of~~ Section 12-8-6 (a) (1) or (b) (1) who has
51 served for 10 years shall be entitled to a disability benefit
52 allowance payable monthly from the Judicial Retirement Fund
53 equal to 75 percent of the salary payable from the State
54 Treasury for the position ~~he~~ held at the time he or she
55 retires. If ~~such the~~ disabled justice or judge has served less
56 than 10 years, he or she shall be entitled to receive a



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57 monthly disability benefit that is equal to 25 percent of the
58 salary payable from the State Treasury for the position ~~he~~
59 held at the time he or she retires plus 10 percent of ~~such the~~
60 salary for each year of service in excess of five years;
61 provided, however, that in no event shall ~~such a~~ justice or
62 judge receive less than 30 percent of the annual salary being
63 paid to a full-time justice or judge, ~~as the case may be,~~ from
64 the State Treasury.

65 (e) (1) Every justice of the Supreme Court, judge of a
66 court of appeals, or judge of a circuit court who has retired
67 pursuant to this article ~~may~~ or Article 7 of this chapter, on
68 the request of the Chief Justice, the presiding judge of a
69 court of appeals, or the Governor, may be called to interim
70 active duty status ~~and, when,~~ upon consent of the retired
71 justice or judge. When serving with the Supreme Court or
72 courts of appeals, he or she shall perform ~~such the~~ duties as
73 may be prescribed by the Chief Justice or the presiding judge
74 of the court of appeals ~~with which he is serving and, when.~~
75 When serving in a circuit court, he or she shall perform ~~such~~
76 the duties as may be prescribed by the presiding judge in the
77 circuit.

78 (2) ~~A~~ Such retired justice ~~or,~~ judge of a court of
79 appeals, or judge of a circuit court ~~in such active service~~
80 ~~status~~ who is called to interim active duty status, in
81 addition to his or her retirement benefits, shall receive ~~an~~
82 additional ~~sum~~ compensation during the term of ~~such service~~
83 ~~which, when added to his retirement benefits, would amount to~~
84 ~~\$250.00 per month less than the monthly salary paid a justice~~

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~~or judge of the appellate court from which he has retired. The salary paid a retired circuit judge called to active service with the Supreme Court or a court of appeals shall be the salary paid a circuit judge in the circuit from which said judge retired. The salary paid a retired circuit judge called to active service as a circuit judge shall be the salary paid a regular judge in the circuit to which he is assigned or in the circuit from which he retired, whichever is greater. In no event, however, shall the total compensation paid to a retired circuit judge on active status during any calendar year exceed a sum which is \$1,000.00 less than the compensation received by a regular judge in the circuit from which such judge~~
retired service in an amount of seven hundred eighty dollars (\$780) per day, subject to state funding. A judge may only be called to interim active duty status for a maximum of 50 days in a calendar year.

(3) A retired circuit judge may only be called to interim active duty status to perform duties in a circuit court when the presiding judge requests the appointment of the interim judge, when the Chief Justice and Administrative Office of Courts certify that the circuit where the judge will serve is needed pursuant to the most recent judicial weighted caseload study, and when the presiding circuit judge in the circuit where the judge will serve concurs that the circuit's caseload requires the service of the interim active judge. Notwithstanding any other provision of law, in order for the judge to continue in interim active duty status, the certification required in this subdivision must be made and



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113 recertified annually on the anniversary that the interim judge
114 is called into service.

115 ~~Whenever a retired justice or judge of a court of~~
116 ~~appeals is serving in a circuit court, he shall receive~~
117 ~~compensation equal to that due the regular judge of that~~
118 ~~circuit for the performance of such duties, such compensation~~
119 ~~to be paid in the same manner as the compensation of the~~
120 ~~regular circuit judge is paid; and, whenever a retired justice~~
121 ~~or a judge of a court of appeals is serving as an active~~
122 ~~member on the Supreme Court or on one of the courts of~~
123 ~~appeals, then he shall be entitled to receive, during the time~~
124 ~~of such service, compensation equal to that due a regular~~
125 ~~justice or judge for the performance of such duties, such~~
126 ~~compensation to be paid in the same manner as the compensation~~
127 ~~of a regular justice or judge is paid.~~

128 ~~A retired justice or judge of one of the courts of~~
129 ~~appeals or circuit judge, while serving with the Supreme Court~~
130 ~~or one of the courts of appeals for reasons other than the~~
131 ~~absence or disqualification of a justice or judge, shall~~
132 ~~perform such duties as may be prescribed by the Chief Justice~~
133 ~~when serving with the Supreme Court, or as prescribed by the~~
134 ~~presiding judge of the court of appeals with which he may be~~
135 ~~serving.~~

136 (4) A retired justice or judge who is called to active
137 duty status pursuant to this section shall receive the same
138 per diem expenses and mileage as state employees paid from
139 funds appropriated to the Unified Judicial System.
140 Additionally, he or she shall be assigned any court and



141 court-supportive personnel necessary to perform his or her
 142 duties.

143 (5) A retired justice or judge who is called to active
 144 duty status pursuant to this section shall complete a minimum
 145 of six hours of approved continuing legal education annually.

146 (6) A retired justice or judge who is called to active
 147 duty status pursuant to this section shall not be a public
 148 official under Chapter 25 of Title 36 by virtue of his or her
 149 service under this section.

150 (f) (1) Whether a retired justice or judge is
 151 satisfactorily performing the assigned duties shall be
 152 determined by the following:

153 ~~The~~ a. If the assignment is to the Supreme Court, by
 154 the Chief Justice, with the advice of the Supreme Court, ~~or.~~

155 b. If the assignment is to a court of appeals, by the
 156 presiding judge of a~~the~~ applicable court of appeals, with the
 157 advice of the court over which he or she presides, ~~shall~~
 158 ~~determine whether such retired justice or judge is~~
 159 ~~satisfactorily performing his assigned duties.~~

160 c. If the assignment is to the circuit court, by the
 161 Chief Justice and the presiding circuit judge of the
 162 applicable judicial circuit.

163 (2) Upon determination that ~~such~~ the retired justice or
 164 judge is not satisfactorily performing ~~such~~ the duties, ~~such~~
 165 the retired justice or judge shall immediately be removed from
 166 interim active duty status, and ~~his~~ the additional interim
 167 active duty status compensation shall be stopped.

168 (g) Except as provided in subdivision (e) (4) or



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169 subsection (f) ~~of this section~~, a retired justice or judge
170 shall hold office as ~~such~~ an additional or extra judge during
171 good behavior and may be removed only for causes specified in
172 the constitution. ~~Such~~ Any retired justices or judges may, ~~however, but subject to the approval of the Chief Justice,~~
173 ~~however, but subject to the approval of the Chief Justice,~~ be
174 transferred to inactive status, upon request for ~~such~~ the
175 transfer. Justices or judges who revert to inactive status
176 shall be entitled to the same retirement benefits prescribed
177 in subsections (a) and (b) ~~of this section~~ for justices and
178 judges who have retired.

179 (h) Nothing ~~contained~~ in this section ~~or hereafter~~
180 shall limit the power and authority of the Chief Justice to
181 transfer a retired justice or judge from inactive status to
182 active status or from active status to inactive status as the
183 public interest in his or her judgment requires.

184 (i) The Administrative Office of Courts shall adopt
185 policies and procedures for nominations to the Chief Justice
186 and duties assigned to interim active duty status justices and
187 judges."

188 "§12-18-61

189 (a) Any district judge who has retired pursuant to this
190 article or Article 7 of this chapter may be called by the
191 Chief Justice to ~~temporary interim~~ active duty status in any
192 court, upon consent of the retired judge.

193 ~~The salary paid a retired district judge called to~~
194 ~~active duty shall be the salary paid a district judge in the~~
195 ~~district from which said district judge retired or the salary~~
196 ~~paid a resident district court judge in the district to which~~



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197 ~~the judge is assigned, whichever is greater. In no event,~~
198 ~~however, shall the total compensation paid to a retired~~
199 ~~district judge on active duty during any calendar year exceed~~
200 ~~a sum which is \$1,000.00 less than the compensation received~~
201 ~~by a regular judge in the district from which said judge is~~
202 ~~retired.~~

203 ~~Such active duty may be terminated by order of the~~
204 ~~Chief Justice at any time.~~

205 (b) (1) A retired district judge who is called to
206 interim active duty status, in addition to his or her
207 retirement benefits, shall receive additional compensation,
208 during the term of service in an amount of seven hundred
209 eighty dollars (\$780) per day, subject to state funding. A
210 judge may only be called to interim active duty status for a
211 maximum of 50 days in a calendar year.

212 (2) A retired district judge may only be called to
213 interim active duty status to perform duties in a circuit or
214 district court when the presiding circuit judge requests the
215 appointment of the interim judge, when the Chief Justice and
216 Administrative Office of Courts certify that the circuit where
217 the judge will serve is needed pursuant to the most recent
218 judicial weighted caseload study, and when the presiding
219 circuit judge in the circuit where the judge will serve
220 concur that the circuit's caseload requires the service of
221 the interim active judge. Notwithstanding any other provision
222 of law, in order for the judge to continue in interim active
223 duty status, the certification required in this subdivision
224 must be made and recertified annually on the anniversary that

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225 the interim judge is called into service.

226 (3) A retired judge who is called to active duty status
227 pursuant to this section shall receive the same per diem
228 expenses and mileage as state employees paid from funds
229 appropriated to the Unified Judicial System. Additionally, he
230 or she shall be assigned any court and court-supportive
231 personnel necessary to perform his or her duties.

232 (4) A retired judge who is called to active duty status
233 pursuant to this section shall complete a minimum of six hours
234 of approved continuing legal education annually.

235 (5) A retired judge who is called to active duty status
236 pursuant to this section shall not be a public official under
237 Chapter 25 of Title 36 by virtue of his or her service under
238 this section.

239 (c) The Chief Justice and the presiding circuit judge
240 of the applicable judicial circuit, shall determine whether a
241 retired judge is satisfactorily performing the assigned
242 duties. Upon determination that the retired judge is not
243 satisfactorily performing the duties, the retired judge shall
244 immediately be removed from interim active duty status, and
245 the additional interim active duty status compensation shall
246 cease.

247 (d) Except as provided in subdivision (b) (2) or
248 subsection (c), a retired judge shall hold office as an
249 additional or extra judge during good behavior and may only be
250 removed for causes specified in the constitution. Any retired
251 judges may be transferred to inactive status, upon request for
252 the transfer. Judges who revert to inactive status shall be

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253 entitled to the same retirement benefits as prescribed
254 pursuant to this chapter.

255 (e) The Administrative Office of Courts shall adopt
256 policies and procedures for nominations to the Chief Justice
257 and duties assigned to interim active duty status judges."

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 20-Apr-23, as amended.

John Treadwell
Clerk

Senate

16-May-23

Passed

House

23-May-23

Concurred in
Senate Amendment