

# HB62 INTRODUCED



1 HB62  
2 5XG56M3-1  
3 By Representative Hill  
4 RFD: Judiciary  
5 First Read: 06-Feb-24  
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SYNOPSIS:

Under existing law, a retired circuit judge or district judge may be called to active duty status when the presiding circuit judge of the applicable circuit requests the appointment of an interim judge and if the Chief Justice and the 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 this certification must be recertified annually.

This bill would provide that a retired circuit or district judge may be called to active duty status when the presiding circuit judge requests the appointment of an interim judge and the Chief Justice approves the interim judge.

This bill would also provide that funds in the discretion of the presiding circuit judge may be used to compensate retired judges.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to retired justices and judges; to amend



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29 Sections 12-18-10 and 12-18-61, as last amended by Act  
30 2023-333, 2023 Regular Session, Code of Alabama 1975, to  
31 revise the process for when a retired justice or judge may be  
32 called to active duty; and allow discretionary funds be used  
33 to pay retired judges.

34 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

35 Section 1. Sections 12-18-10 and 12-18-61, as last  
36 amended by Act 2023-333, 2023 Regular Session, Code of Alabama  
37 1975, are amended to read as follows:

38 "§12-18-10

39 (a) The retirement benefit payable to a justice of the  
40 Supreme Court or judge of one of the courts of appeals  
41 retiring pursuant to Section 12-18-6(a) (2), (3), (4), or (5)  
42 shall be 75 percent of the salary prescribed by law for the  
43 position from which he or she retires, payable monthly for the  
44 rest of his or her life. The benefit shall continue to be 75  
45 percent of his or her salary prescribed by law for the  
46 position and shall change in amount as the salary is  
47 increased or decreased by law and may not be subject to writs  
48 of attachment or garnishment.

49 (b) The retirement benefit payable to a judge of a  
50 circuit court retiring pursuant to Section 12-18-6(b) (2), (3),  
51 (4), or (5) shall be 75 percent of the salary prescribed by  
52 law of the salary payable from the State Treasury to circuit  
53 judges. The retirement benefits shall be payable monthly for  
54 the life of the beneficiary and shall continue to be 75  
55 percent of the salary then prescribed by law for the  
56 respective position and shall change in amount as the salary



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57 is increased or decreased by law and may not be subject to  
58 writs of attachment or garnishment.

59 (c) After the death of any justice or judge who held  
60 office for a minimum of five years, his or her spouse shall  
61 receive a yearly benefit equivalent to three percent of the  
62 salary payable from the State Treasury prescribed by law for  
63 his or her former position as either a justice or judge, for  
64 each year of service, not to exceed 30 percent of the salary,  
65 payable monthly for the remainder of the spouse's life or  
66 until his or her remarriage, and the benefit shall change in  
67 amount as the salary is increased or decreased by law.

68 (d) Any justice or judge retiring pursuant to Section  
69 12-18-6(a)(1) or (b)(1) who has served for 10 years shall be  
70 entitled to a disability benefit allowance payable monthly  
71 from the Judicial Retirement Fund equal to 75 percent of the  
72 salary payable from the State Treasury for the position held  
73 at the time he or she retires. If the disabled justice or  
74 judge has served less than 10 years, he or she shall be  
75 entitled to receive a monthly disability benefit that is equal  
76 to 25 percent of the salary payable from the State Treasury  
77 for the position held at the time he or she retires plus 10  
78 percent of the salary for each year of service in excess of  
79 five years; provided, however, that in no event shall  
80 a justice or judge receive less than 30 percent of the annual  
81 salary being paid to a full-time justice or judge from the  
82 State Treasury.

83 (e) (1) ~~Every~~ Any justice of the Supreme Court, ~~or~~ or judge  
84 of a court of appeals, ~~or judge of a circuit court~~ who has



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85 retired pursuant to this article or Article 7 ~~of this chapter~~,  
86 on the request of the Chief Justice, the presiding judge of a  
87 court of appeals, or the Governor, may be called to interim  
88 active duty status, upon consent of the retired justice or  
89 judge. Any circuit judge who has retired pursuant to this  
90 article or Article 7, on the request of the presiding circuit  
91 judge of the applicable judicial circuit and with the approval  
92 of the Chief Justice, may be called to interim active duty  
93 status, upon consent of the retired judge. When serving with  
94 the Supreme Court or courts of appeals, he or she shall  
95 perform the duties as may be prescribed by the Chief Justice  
96 or the presiding judge of the court of appeals. When serving  
97 in a circuit court, he or she shall perform the duties as may  
98 be prescribed by the presiding judge in the circuit.

99 (2) A retired justice, judge of a court of appeals, or  
100 judge of a circuit court who is called to interim active duty  
101 status, in addition to his or her retirement benefits, shall  
102 receive additional compensation during the term of service in  
103 an amount of seven hundred eighty dollars (\$780) per day,  
104 subject to state funding, including funds within the  
105 discretion of the presiding circuit judge of the judicial  
106 circuit. A judge may only be called to interim active duty  
107 status for a maximum of 50 days in a calendar year.

108 ~~(3) A retired circuit judge may only be called to~~  
109 ~~interim active duty status to perform duties in a circuit~~  
110 ~~court when the presiding judge requests the appointment of the~~  
111 ~~interim judge, when the Chief Justice and Administrative~~  
112 ~~Office of Courts certify that the circuit where the judge will~~



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113 ~~serve is needed pursuant to the most recent judicial weighted~~  
114 ~~easeload study, and when the presiding circuit judge in the~~  
115 ~~circuit where the judge will serve concurs that the circuit's~~  
116 ~~easeload requires the service of the interim active judge.~~  
117 ~~Notwithstanding any other provision of law, in order for the~~  
118 ~~judge to continue in interim active duty status, the~~  
119 ~~certification required in this subdivision must be made~~  
120 ~~and recertified annually on the anniversary that the interim~~  
121 ~~judge is called into service.~~

122 ~~(4)~~ (3) A retired justice or judge who is called to  
123 active duty status pursuant to this section shall receive the  
124 same per diem expenses and mileage as state employees paid  
125 from funds appropriated to the Unified Judicial System.  
126 Additionally, he or she shall be assigned any court and  
127 court-supportive personnel necessary to perform his or her  
128 duties.

129 ~~(5)~~ (4) A retired justice or judge who is called to  
130 active duty status pursuant to this section shall complete a  
131 minimum of six hours of approved continuing legal education  
132 annually.

133 ~~(6)~~ (5) A retired justice or judge who is called to  
134 active duty status pursuant to this section shall not be a  
135 public official under Chapter 25 of Title 36 by virtue of his  
136 or her service under this section.

137 (f) (1) Whether a retired justice or judge is  
138 satisfactorily performing the assigned duties shall be  
139 determined by the following:

140 a. If the assignment is to the Supreme Court, by the



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141 Chief Justice, with the advice of the Supreme Court.

142 b. If the assignment is to a court of appeals, by the  
143 presiding judge of the applicable court of appeals, with the  
144 advice of the court over which he or she presides.

145 c. If the assignment is to the circuit court, by the  
146 Chief Justice and the presiding circuit judge of the  
147 applicable judicial circuit.

148 (2) Upon determination that the retired justice or  
149 judge is not satisfactorily performing the duties, the retired  
150 justice or judge shall immediately be removed from interim  
151 active duty status, and the additional interim active duty  
152 status compensation shall be stopped.

153 (g) Except as provided in subdivision (e) ~~(3)~~ (1) or  
154 subsection (f), a retired justice or judge shall hold office  
155 as an additional or extra judge during good behavior and may  
156 be removed only for causes specified in the constitution. Any  
157 retired justices or judges may be transferred to inactive  
158 status, upon request for the transfer. Justices or judges who  
159 revert to inactive status shall be entitled to the same  
160 retirement benefits prescribed in subsections (a) and (b) for  
161 justices and judges who have retired.

162 (h) Nothing in this section shall limit the power and  
163 authority of the Chief Justice to transfer a retired justice  
164 or judge from inactive status to active status or from active  
165 status to inactive status as the public interest in his or  
166 her judgment requires.

167 (i) The Administrative Office of Courts shall adopt  
168 policies and procedures for nominations to the Chief Justice



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169 and duties assigned to interim active duty status justices and  
170 judges."

171 "§12-18-61

172 (a) Any district judge who has retired pursuant to this  
173 article or Article 7 ~~of this chapter may be called by~~, on the  
174 request of the presiding circuit judge of the applicable  
175 judicial circuit and with the approval of the Chief Justice,  
176 may be called to interim active duty status in any circuit or  
177 district court, upon consent of the retired judge.

178 (b) (1) A retired district judge who is called to  
179 interim active duty status, in addition to his or her  
180 retirement benefits, shall receive additional compensation  
181 during the term of service in an amount of seven hundred  
182 eighty dollars (\$780) per day, subject to state funding,  
183 including funds within the discretion of the presiding circuit  
184 judge of the judicial circuit. A judge may only be called to  
185 interim active duty status for a maximum of 50 days in a  
186 calendar year.

187 ~~(2) A retired district judge may only be called to~~  
188 ~~interim active duty status to perform duties in a circuit or~~  
189 ~~district court when the presiding circuit judge requests the~~  
190 ~~appointment of the interim judge, when the Chief Justice and~~  
191 ~~Administrative Office of Courts certify that the circuit where~~  
192 ~~the judge will serve is needed pursuant to the most recent~~  
193 ~~judicial weighted caseload study, and when the presiding~~  
194 ~~circuit judge in the circuit where the judge will serve~~  
195 ~~concurs that the circuit's caseload requires the service of~~  
196 ~~the interim active judge. Notwithstanding any other provision~~





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197 ~~of law, in order for the judge to continue in interim active~~  
198 ~~duty status, the certification required in this subdivision~~  
199 ~~must be made and recertified annually on the anniversary that~~  
200 ~~the interim judge is called into service.~~

201 ~~(3)~~ (2) A retired judge who is called to active duty  
202 status pursuant to this section shall receive the same per  
203 diem expenses and mileage as state employees paid from funds  
204 appropriated to the Unified Judicial System. Additionally, he  
205 or she shall be assigned any court and court-supportive  
206 personnel necessary to perform his or her duties.

207 ~~(4)~~ (3) A retired judge who is called to active duty  
208 status pursuant to this section shall complete a minimum of  
209 six hours of approved continuing legal education annually.

210 ~~(5)~~ (4) A retired judge who is called to active duty  
211 status pursuant to this section shall not be a public official  
212 under Chapter 25 of Title 36 by virtue of his or her service  
213 under this section.

214 (c) The Chief Justice and the presiding circuit judge  
215 of the applicable judicial circuit, shall determine whether a  
216 retired judge is satisfactorily performing the assigned  
217 duties. Upon determination that the retired judge is not  
218 satisfactorily performing the duties, the retired judge shall  
219 immediately be removed from interim active duty status, and  
220 the additional interim active duty status compensation shall  
221 cease.

222 (d) Except as provided in subdivision (b) ~~(2)~~ (1) or  
223 subsection (c), a retired judge shall hold office as an  
224 additional or extra judge during good behavior and may only be



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225 removed for causes specified in the constitution. Any retired  
226 judges may be transferred to inactive status, upon request for  
227 the transfer. Judges who revert to inactive status shall be  
228 entitled to the same retirement benefits as prescribed  
229 pursuant to this chapter.

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

233 Section 2. This act shall become effective on October  
234 1, 2024.