



**House Ways and Means General Fund Reported
Substitute for HB542**

A BILL

TO BE ENTITLED

AN ACT

Relating to retirement benefits; to amend Sections 12-17-213 and 12-17-227.11, Code of Alabama 1975, to authorize qualifying district attorneys to participate in both the supernumerary district attorney program and the Employees' Retirement System; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 12-17-227.11 and 12-17-213, Code of Alabama 1975, are amended to read as follows:

"§12-17-227.11

(a) A person serving as district attorney, supernumerary district attorney, or who has made an election to assume the office of supernumerary district attorney or is otherwise entitled to participate in the supernumerary district attorney program established under Division 2 of this article shall, subject to subsection (c), continue to serve or participate in the supernumerary district attorney program, which shall include the assumption of the office of the supernumerary district attorney after November 8, 2016,



**House Ways and Means General Fund Reported
Substitute for HB542**

according to the terms and conditions of Division 2 of this article, notwithstanding the fact that the person may be re-elected after November 8, 2016, to the office he or she is holding on November 8, 2016.

(b) (1) No person may participate in both the supernumerary district attorney program and the Employees' Retirement System based on the same service.

(2) A person who independently qualifies for the supernumerary district attorney program and the Employees' Retirement System based on separate years of service may participate in both programs.

(c) A district attorney who was elected prior to November 8, 2016, and who is serving in the capacity of district attorney on and after November 8, 2016, and had prior service credit in the Employees' Retirement System, Teachers' Retirement System, or Judicial Retirement Fund prior to being elected district attorney shall have 30 days from November 8, 2016, to elect to participate in the District Attorneys' Plan established by this division. This election shall be irrevocable.

(d) An assistant or deputy district attorney who obtains service credit in that position as a Tier~~1~~I plan member and is elected or appointed district attorney on or after November 8, 2016, may withdraw from service after completion of not less than 25 years of ~~credible~~ creditable service and may retire without a reduction in retirement allowance upon written application to the Board of Control setting forth at what time, not less than 30 days nor more



**House Ways and Means General Fund Reported
Substitute for HB542**

than 90 days subsequent to the execution and filing thereof,
he or she desires to be retired."

"§12-17-213

(a) Any person now serving or having formerly served as
a district attorney of a judicial circuit of Alabama, who has
served for not less than 18 years, when he or she has reached
the age of 60 years, may elect to become a supernumerary
district attorney by filing a written declaration to that
effect with the Governor, and time served as judge of a court
of record, a county court, county solicitor or any other
countywide elected official, a full-time deputy or assistant
district attorney, or as a duly licensed attorney employed
full time by the State of Alabama, whether commissioned or
appointed, or as an elected constitutional officer or other
state official, shall be counted as time served ~~towards~~ toward
accumulating the above required 18 years; provided, that such
district attorney shall have served not less than 10 years as
district attorney of a judicial circuit.

(b) Any district attorney of a judicial circuit who has
served 18 years as circuit district attorney may elect to
become a supernumerary district attorney by filing a written
declaration to that effect with the Governor, and only two and
one-half years served as judge of a court of record, a county
court, county solicitor, a full-time deputy or assistant
district attorney, or as a duly licensed attorney employed
full time by the State of Alabama, whether commissioned or
appointed, or as an elected constitutional officer or other
state official, may be counted as time served ~~towards~~ toward



**House Ways and Means General Fund Reported
Substitute for HB542**

accumulating the above required 18 years.

(c) On October 1, 2021, any person who was elected or appointed as a district attorney prior to November 8, 2016, and held office as a district attorney through or after January 1, 2019, may elect to become a supernumerary district attorney by filing a written declaration to that effect with the Governor. Prior time served as a judge of a court of record, a full-time deputy or assistant district attorney, a duly licensed attorney employed full time by the State of Alabama, or a district attorney, shall be counted as time served ~~towards~~ toward accumulating the 18 years required in this section.

(d) ~~Any~~ Notwithstanding Section 36-27-16, any district attorney who, ~~on or after October 1, 2021,~~ qualifies under Division 2, commencing with Section 12-17-210, ~~of~~ Article 6 of this chapter, to receive a salary pursuant to Section 12-17-215 and also qualifies to receive a pension under any of the Retirement Systems of Alabama, ~~shall elect,~~ at the time of separation from state service, ~~to~~ may receive ~~either~~ a salary under Section 12-17-215 ~~or~~ and a pension, ~~but not both,~~ by filing a written declaration with the Governor and the applicable retirement system, provided that applicable time and credit are based on separate years of service. This subsection shall not prohibit survivor benefits that may be available under any of the Retirement Systems of Alabama.

(e) A supernumerary district attorney who is receiving a salary pursuant to Section 12-17-215 may also be employed by, or perform duties in any capacity, including as an



**House Ways and Means General Fund Reported
Substitute for HB542**

113 independent contractor for, any employer participating in the
114 Employees' Retirement System; provided, however, the
115 supernumerary district attorney's compensation from the
116 employer in a calendar year may not exceed the salary
117 limitation described and calculated pursuant to ~~subsection (a)~~
118 ~~of~~ Section ~~36-27-8.2~~ 36-27-8.2(a)."

119 **Section 2.** This act shall become effective on **July 1,**
120 **2025.**