



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

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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,



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

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

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

40 (c) A district attorney who was elected prior to
41 November 8, 2016, and who is serving in the capacity of
42 district attorney on and after November 8, 2016, and had prior
43 service credit in the Employees' Retirement System, Teachers'
44 Retirement System, or Judicial Retirement Fund prior to being
45 elected district attorney shall have 30 days from November 8,
46 2016, to elect to participate in the District Attorneys' Plan
47 established by this division. This election shall be
48 irrevocable.

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



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

59 "§12-17-213

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

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



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85 accumulating the above required 18 years.

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

97 (d) ~~Any~~ Notwithstanding Section 36-27-16, any district
98 attorney who, ~~on or after October 1, 2021,~~ qualifies under
99 Division 2, commencing with Section 12-17-210, ~~of~~ Article 6 of
100 this chapter, to receive a salary pursuant to Section
101 12-17-215 and also qualifies to receive a pension under any of
102 the Retirement Systems of Alabama, ~~shall elect,~~ at the time of
103 separation from state service, ~~to~~ may receive ~~either~~ a salary
104 under Section 12-17-215 ~~or~~ and a pension, ~~but not both,~~ by
105 filing a written declaration with the Governor and the
106 applicable retirement system, provided that applicable time
107 and credit are based on separate years of service. This
108 subsection shall not prohibit survivor benefits that may be
109 available under any of the Retirement Systems of Alabama.

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



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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.**