

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**SENATE DRS55052-LL-60 (2/4)**

Short Title: Appellate Clerks in Judicial Retire. System. (Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED  
AN ACT TO INCLUDE THE CLERK OF THE SUPREME COURT AND THE CLERK OF  
THE COURT OF APPEALS AS MEMBERS OF THE CONSOLIDATED JUDICIAL  
RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 135-50(b) reads as rewritten:

"(b) The purpose of this Article is to improve the administration of justice by attracting and retaining the most highly qualified talent available within the State to the positions of justice and judge, district attorney and solicitor, public defender, the Director of Indigent Defense Services, ~~and~~ clerk of superior court, clerk of the Supreme Court, and clerk of the Court of Appeals within the General Court of Justice."

**SECTION 2.** G.S. 135-51 reads as rewritten:

**"§ 135-51. Scope.**

(a) This Article provides consolidated retirement benefits for all justices and judges, district attorneys, and solicitors who are serving on January 1, 1974, and who become such thereafter; and for all clerks of superior court who are so serving on January 1, 1975, and who become such after that date; and for all public defenders who are serving on July 1, 2007, and who become public defenders after that date; and for the Director of Indigent Defense Services who is serving on July 1, 2008, and those who become Director of Indigent Defense Services after that ~~date.~~ date; and for all clerks of the Supreme Court and clerks of the Court of Appeals who are serving on July 1, 2009, and who become clerks after that date.

(b) For justices and judges of the appellate and superior court divisions of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

For district attorneys and judges of the district court of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

For clerks of superior court of the General Court of Justice who so served prior to January 1, 1975, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

(c) The retirement benefits of any person who becomes a justice or judge, district attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after January 1, 1975, or public defender on or after July 1, 2007, or the Director of Indigent Defense Services on or after July 1, 2008, or clerk of the Supreme Court or clerk of the Court of



1 Appeals on or after July 1, 2009, shall be determined solely in accordance with the provisions  
2 of this Article."

3 **SECTION 3.** G.S. 135-53 reads as rewritten:

4 **"§ 135-53. Definitions.**

5 The following words and phrases as used in this Article, unless a different meaning is  
6 plainly required by the context, shall have the following meanings:

- 7 (1) "Accumulated contributions" with respect to any member shall mean the  
8 sum of all the amounts deducted from the compensation of the member  
9 pursuant to G.S. 135-68 since he last became a member and credited to his  
10 account in the annuity savings fund, plus any amount standing to his credit  
11 pursuant to G.S. 135-67(c) as a result of a prior period of membership, plus  
12 any amounts credited to his account pursuant to G.S. 135-28.1(b) or  
13 135-56(b), together with regular interest on all such amounts computed as  
14 provided in G.S. 135-7(b).
- 15 (2) "Actuarial equivalent" shall mean a benefit of equal value when computed  
16 upon the bases of such mortality tables as shall be adopted by the Board of  
17 Trustees, and regular interest.
- 18 (2a) "Average final compensation" shall mean the average annual compensation  
19 of a member during the 48 consecutive calendar months of membership  
20 service producing the highest such average.
- 21 (3) "Beneficiary" shall mean any person in receipt of a retirement allowance or  
22 other benefit as provided in this Article.
- 23 (4) "Board of Trustees" shall mean the Board of Trustees established by  
24 G.S. 135-6.
- 25 (4a) "Clerk of superior court" shall mean the clerk of superior court provided for  
26 in G.S. 7A-100(a).
- 27 (4b) "Clerk of the Supreme Court" means the clerk of the Supreme Court  
28 provided for in G.S. 7A-11.
- 29 (4c) "Clerk of the Court of Appeals" means the clerk of the Court of Appeals  
30 provided for in G.S. 7A-20.
- 31 (5) "Compensation" shall mean all salaries and wages derived from public funds  
32 which are earned by a member of the Retirement System for his service as a  
33 justice or judge, or district attorney, or clerk of superior court, or public  
34 defender, or the Director of Indigent Defense ~~Services~~. Services, or clerk of  
35 the Supreme Court or clerk of the Court of Appeals.
- 36 (6) "Creditable service" shall mean for any member the total of his prior service  
37 plus his membership service.
- 38 (6a) "Director of Indigent Defense Services" shall mean the Director of Indigent  
39 Defense Services as provided for in G.S. 7A-498.6.
- 40 (6b) "District attorney" shall mean the district attorney or solicitor provided for in  
41 G.S. 7A-60.
- 42 (7) "Filing" when used in reference to an application for retirement shall mean  
43 the receipt of an acceptable application on a form provided by the  
44 Retirement System.
- 45 (8) "Final compensation" shall mean for any member the annual equivalent of  
46 the rate of compensation most recently applicable to him.
- 47 (9) "Judge" shall mean any justice or judge of the General Court of Justice and  
48 the administrative officer of the courts.
- 49 (10) "Medical board" shall mean the board of physicians provided for in  
50 G.S. 135-6.

- 1 (11) "Member" shall mean any person included in the membership of the  
2 Retirement System as provided in this Article.
- 3 (12) "Membership service" shall mean service as a judge, district attorney, clerk  
4 of superior court, public defender, ~~or~~ the Director of Indigent Defense  
5 ~~Services~~ Services, clerk of the Supreme Court, or clerk of the Court of  
6 Appeals rendered while a member of the Retirement System.
- 7 (13) "Previous system" shall mean, with respect to any member, the retirement  
8 benefit provisions of Article 6 and Article 8 of Chapter 7A of the General  
9 Statutes, to the extent that such Article or Articles were formerly applicable  
10 to the member, and in the case of judges of the district court division, district  
11 attorney, public defender, the Director of Indigent Defense Services, and and  
12 clerk of superior court of the General Court of Justice, the Teachers' and  
13 State Employees' Retirement System.
- 14 (14) "Prior service" shall mean service rendered by a member, prior to his  
15 membership in the Retirement System, for which credit is allowable under  
16 G.S. 135-56.
- 17 (14a) "Public defender" means a public defender provided for in G.S. 7A-498.7,  
18 the appellate defender provided for in G.S. 7A-498.8, the capital defender,  
19 and the juvenile defender.
- 20 (15) "Regular interest" shall mean interest compounded annually at such a rate as  
21 shall be determined by the Board of Trustees in accordance with  
22 G.S. 135-7(b).
- 23 (16) "Retirement" shall mean the withdrawal from active service with a  
24 retirement allowance granted under the provisions of this Chapter. In order  
25 for a member's retirement to become effective in any month, the member  
26 must render no service at any time during that month.
- 27 (17) "Retirement allowance" shall mean the periodic payments to which a  
28 beneficiary becomes entitled under the provisions of this Article.
- 29 (18) "Retirement System" shall mean the "Consolidated Judicial Retirement  
30 System" of North Carolina, as established in this Article.
- 31 (19) "Year" as used in this Article shall mean the regular fiscal year beginning  
32 July 1 and ending June 30 in the following calendar year, unless otherwise  
33 defined by regulation of the Board of Trustees."

34 **SECTION 4.** G.S. 135-54 reads as rewritten:

35 **"§ 135-54. Name and date of establishment.**

36 A Retirement System is hereby established and placed under the management of the Board  
37 of Trustees for the purpose of providing retirement allowances and other benefits under the  
38 provisions of this Article for justices and judges, district attorneys, public defenders, the  
39 Director of Indigent Defense Services, ~~and~~ clerks of superior court, clerks of the Supreme  
40 Court, and clerks of the Court of Appeals of the General Court of Justice of North Carolina,  
41 and their survivors. The Retirement System so created shall be established as of January 1,  
42 1974.

43 The Retirement System shall have the power and privileges of a corporation and shall be  
44 known as the "Consolidated Judicial Retirement System of North Carolina," and by such name  
45 all of its business shall be transacted."

46 **SECTION 5.** G.S. 135-55 reads as rewritten:

47 **"§ 135-55. Membership.**

48 (a) The membership of the Retirement System shall consist of:

- 49 (1) All judges and district attorneys in office on January 1, 1974;  
50 (2) All persons who become judges and district attorneys or reenter service as  
51 judges and district attorneys after January 1, 1974;

- 1 (3) All clerks of superior court in office on January 1, 1975;  
2 (4) All persons who become clerks of superior court or reenter service as clerks  
3 of superior court after January 1, 1975;  
4 (5) All public defenders in office on July 1, 2007;  
5 (6) All persons who become public defenders or reenter service as public  
6 defenders after July 1, 2007;  
7 (7) The Director of Indigent Defense Services on July 1, 2008; ~~and~~  
8 (8) All persons who become the Director of Indigent Defense Services or  
9 reenter service as the Director of Indigent Defense Services after July 1,  
10 ~~2008~~. 2008;  
11 (8) All clerks of the Supreme Court and clerks of the Court of Appeals in office  
12 on July 1, 2009; and  
13 (9) All persons who become clerks of the Supreme Court and clerks of the Court  
14 of Appeals or reenter service as clerks of the Supreme Court and clerks of  
15 the Court of Appeals after July 1, 2009.  
16 (b) The membership of any person in the Retirement System shall cease upon:  
17 (1) The withdrawal of his accumulated contributions after he is no longer a  
18 judge, district attorney, public defender, the Director of Indigent Defense  
19 Services, ~~or~~ clerk of superior court, clerk of the Supreme Court, or clerk of  
20 the Court of Appeals, or  
21 (2) His retirement under the provisions of the Retirement System, or  
22 (3) His death."

23 **SECTION 6.** G.S. 135-58(a5) reads as rewritten:

24 "(a6) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c)  
25 on or after July 1, 2008, but before July 1, 2009, after the member has either attained the  
26 member's 65th birthday or has completed 24 years or more of creditable service, shall receive  
27 an annual retirement allowance, payable monthly, which shall commence on the effective date  
28 of the member's retirement and shall be continued on the first day of each month thereafter  
29 during the member's lifetime, the amount of which shall be computed as the sum of the  
30 amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event  
31 shall the annual allowance payable to any member be greater than an amount which, when  
32 added to the allowance, if any, to which the member is entitled under the Teachers' and State  
33 Employees' Retirement System, the Legislative Retirement System, or the Local Governmental  
34 Employees' Retirement System (prior in any case to any reduction for early retirement or for an  
35 optional mode of payment), would total three-fourths of the member's final compensation:

- 36 (1) Four and two hundredths percent (4.02%) of the member's final  
37 compensation, multiplied by the number of years of creditable service  
38 rendered as a justice of the Supreme Court or judge of the Court of Appeals;  
39 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
40 compensation, multiplied by the number of years of creditable service  
41 rendered as a judge of the superior court or as Administrative Officer of the  
42 Courts;  
43 (3) Three and two hundredths percent (3.02%) of the member's final  
44 compensation, multiplied by the number of years of creditable service  
45 rendered as a judge of the district court, district attorney, clerk of superior  
46 court, public defender, or the Director of Indigent Defense Services;  
47 (4) A service retirement allowance computed in accordance with the service  
48 retirement provisions of Article 3 of Chapter 128 of the General Statutes  
49 using an average final compensation as defined in G.S. 135-53(2a) and  
50 creditable service equal to the number of years of the member's creditable

- 1 service that was transferred from the Local Governmental Employees'  
2 Retirement System to this System as provided in G.S. 135-56; and  
3 (5) A service retirement allowance computed in accordance with the service  
4 retirement provisions of Article 1 of this Chapter using an average final  
5 compensation as defined in G.S. 135-53(2a) and creditable service, including  
6 any sick leave standing to the credit of the member, equal to the number of  
7 years of the member's creditable service that was transferred from the  
8 Teachers' and State Employees' Retirement System or the Legislative  
9 Retirement System to this System as provided in G.S. 135-56."

10 **SECTION 7.** G.S. 135-58 is amended by adding a new subsection to read:

11 "(a7) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c)  
12 on or after July 1, 2009, after the member has either attained the member's 65<sup>th</sup> birthday or has  
13 completed 24 years or more of creditable service, shall receive an annual retirement allowance,  
14 payable monthly, which shall commence on the effective date of the member's retirement and  
15 shall be continued on the first day of each month thereafter during the member's lifetime, the  
16 amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4),  
17 and (5) of this subsection, provided that in no event shall the annual allowance payable to any  
18 member be greater than an amount which, when added to the allowance, if any, to which the  
19 member is entitled under the Teachers' and State Employees' Retirement System, the  
20 Legislative Retirement System, or the Local Governmental Employees' Retirement System  
21 (prior in any case to any reduction for early retirement or for an optional mode of payment),  
22 would total three-fourths of the member's final compensation:

- 23 (1) Four and two hundredths percent (4.02%) of the member's final  
24 compensation, multiplied by the number of years of creditable service  
25 rendered as a justice of the Supreme Court or judge of the Court of Appeals;  
26 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
27 compensation, multiplied by the number of years of creditable service  
28 rendered as a judge of the superior court or as Administrative Officer of the  
29 Courts;  
30 (3) Three and two hundredths percent (3.02%) of the member's final  
31 compensation, multiplied by the number of years of creditable service  
32 rendered as a judge of the district court, district attorney, clerk of superior  
33 court, public defender, the Director of Indigent Defense Services, clerk of  
34 the Supreme Court or clerk of the Court of Appeals;  
35 (4) A service retirement allowance computed in accordance with the service  
36 retirement provisions of Article 3 of Chapter 128 of the General Statutes  
37 using an average final compensation as defined in G.S. 135-53(2a) and  
38 creditable service equal to the number of years of the member's creditable  
39 service that was transferred from the Local Governmental Employees'  
40 Retirement System to this System as provided in G.S. 135-56; and  
41 (5) A service retirement allowance computed in accordance with the service  
42 retirement provisions of Article 1 of this Chapter using an average final  
43 compensation as defined in G.S. 135-53(2a) and creditable service, including  
44 any sick leave standing to the credit of the member, equal to the number of  
45 years of the member's creditable service that was transferred from the  
46 Teachers' and State Employees' Retirement System or the Legislative  
47 Retirement System to this System as provided in G.S. 135-56."

48 **SECTION 8.** This act becomes effective July 1, 2009.