

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 980

Short Title: Public Defenders/Judicial Retirement System. (Public)

Sponsors: Senator Atwater.

Referred to: Pensions & Retirement and Aging.

March 24, 2005

A BILL TO BE ENTITLED
AN ACT TO INCLUDE PUBLIC DEFENDERS 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, and clerk of superior court, 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 ~~thereafter.~~ after that date; and for all public defenders who are serving on July 1, 2005, and who become public defenders 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

1 January 1, 1975, or public defender on or after July 1, 2005, shall be determined solely
2 in accordance with the provisions 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
6 is plainly required by the context, shall have the following meanings:

- 7 (1) "Accumulated contributions" with respect to any member shall mean
8 the sum of all the amounts deducted from the compensation of the
9 member pursuant to G.S. 135-68 since he last became a member and
10 credited to his account in the annuity savings fund, plus any amount
11 standing to his credit pursuant to G.S. 135-67(c) as a result of a prior
12 period of membership, plus any amounts credited to his account
13 pursuant to G.S. 135-28.1(b) or 135-56(b), together with regular
14 interest on all such amounts computed as provided in G.S. 135-7(b).
- 15 (2) "Actuarial equivalent" shall mean a benefit of equal value when
16 computed upon the bases of such mortality tables as shall be adopted
17 by the Board of Trustees, and regular interest.
- 18 (2a) "Average final compensation" shall mean the average annual
19 compensation of a member during the 48 consecutive calendar months
20 of membership service producing the highest such average.
- 21 (3) "Beneficiary" shall mean any person in receipt of a retirement
22 allowance or 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
26 provided for in G.S. 7A-100(a).
- 27 (5) "Compensation" shall mean all salaries and wages derived from public
28 funds which are earned by a member of the Retirement System for his
29 service as a justice or judge, or district attorney, or clerk of superior
30 ~~court.~~ court, or public defender.
- 31 (6) "Creditable service" shall mean for any member the total of his prior
32 service plus his membership service.
- 33 (6a) "District attorney" shall mean the district attorney or solicitor provided
34 for in G.S. 7A-60.
- 35 (7) "Filing" when used in reference to an application for retirement shall
36 mean the receipt of an acceptable application on a form provided by
37 the Retirement System.
- 38 (8) "Final compensation" shall mean for any member the annual
39 equivalent of the rate of compensation most recently applicable to him.
- 40 (9) "Judge" shall mean any justice or judge of the General Court of Justice
41 and the administrative officer of the courts.
- 42 (10) "Medical board" shall mean the board of physicians provided for in
43 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,
4 ~~or~~ clerk of superior ~~court~~ court, or public defender rendered while a
5 member of the Retirement System.
- 6 (13) "Previous system" shall mean, with respect to any member, the
7 retirement benefit provisions of Article 6 and Article 8 of Chapter 7A
8 of the General Statutes, to the extent that such Article or Articles were
9 formerly applicable to the member, and in the case of judges of the
10 district court division, ~~and~~ district attorney, public defender, and clerk
11 of superior court of the General Court of Justice, the Teachers' and
12 State Employees' Retirement System.
- 13 (14) "Prior service" shall mean service rendered by a member, prior to his
14 membership in the Retirement System, for which credit is allowable
15 under G.S. 135-56.
- 16 (14a) "Public defender" means a public defender provided for in
17 G.S. 7A-498.7 and the appellate defender provided for in
18 G.S. 7A-498.8.
- 19 (15) "Regular interest" shall mean interest compounded annually at such a
20 rate as shall be determined by the Board of Trustees in accordance
21 with G.S. 135-7(b).
- 22 (16) "Retirement" shall mean the withdrawal from active service with a
23 retirement allowance granted under the provisions of this Chapter. In
24 order for a member's retirement to become effective in any month, the
25 member must render no service at any time during that month.
- 26 (17) "Retirement allowance" shall mean the periodic payments to which a
27 beneficiary becomes entitled under the provisions of this Article.
- 28 (18) "Retirement System" shall mean the "Consolidated Judicial Retirement
29 System" of North Carolina, as established in this Article.
- 30 (19) "Year" as used in this Article shall mean the regular fiscal year
31 beginning July 1 and ending June 30 in the following calendar year,
32 unless otherwise defined by regulation of the Board of Trustees."

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

34 **"§ 135-54. Name and date of establishment.**

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

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

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

1 **"§ 135-55. Membership.**

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

3 (1) All judges and district attorneys in office on January 1, 1974;

4 (2) All persons who become judges and district attorneys or reenter
5 service as judges and district attorneys after January 1, 1974;

6 (3) All clerks of superior court in office on January 1, 1975; ~~and~~

7 (4) All persons who become clerks of superior court or reenter service as
8 clerks of superior court after January 1, ~~1975;~~ 1975;

9 (5) All public defenders in office on July 1, 2005; and

10 (6) All persons who become public defenders or reenter service as public
11 defenders after July 1, 2005.

12 (b) The membership of any person in the Retirement System shall cease upon:

13 (1) The withdrawal of his accumulated contributions after he is no longer
14 a judge, district ~~attorney~~ attorney, public defender, or clerk of superior
15 court, or

16 (2) His retirement under the provisions of the Retirement System, or

17 (3) His death."

18 **SECTION 6.** G.S. 135-58(a4) reads as rewritten:

19 "(a4) Any member who retires under the provisions of G.S. 135-57(a) or
20 G.S. 135-57(c) on or after January 1, 2004, but before July 1, 2005, after the member
21 has either attained the member's 65th birthday or has completed 24 years or more of
22 creditable service, shall receive an annual retirement allowance, payable monthly,
23 which shall commence on the effective date of the member's retirement and shall be
24 continued on the first day of each month thereafter during the member's lifetime, the
25 amount of which shall be computed as the sum of the amounts in subdivisions (1), (2),
26 (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance
27 payable to any member be greater than an amount which, when added to the allowance,
28 if any, to which the member is entitled under the Teachers' and State Employees'
29 Retirement System, the Legislative Retirement System, or the Local Governmental
30 Employees' Retirement System (prior in any case to any reduction for early retirement
31 or for an optional mode of payment), would total three-fourths of the member's final
32 compensation:

33 (1) Four and two hundredths percent (4.02%) of the member's final
34 compensation, multiplied by the number of years of creditable service
35 rendered as a justice of the Supreme Court or judge of the Court of
36 Appeals;

37 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
38 compensation, multiplied by the number of years of creditable service
39 rendered as a judge of the superior court or as Administrative Officer
40 of the Courts;

41 (3) Three and two hundredths percent (3.02%) of the member's final
42 compensation, multiplied by the number of years of creditable service
43 rendered as a judge of the district court, district attorney, or clerk of
44 superior court;

- 1 (4) A service retirement allowance computed in accordance with the
2 service retirement provisions of Article 3 of Chapter 128 of the
3 General Statutes using an average final compensation as defined in
4 G.S. 135-53(2a) and creditable service equal to the number of years of
5 the member's creditable service that was transferred from the Local
6 Governmental Employees' Retirement System to this System as
7 provided in G.S. 135-56; and
- 8 (5) A service retirement allowance computed in accordance with the
9 service retirement provisions of Article 1 of this Chapter of the
10 General Statutes using an average final compensation as defined in
11 G.S. 135-53(2a) and creditable service, including any sick leave
12 standing to the credit of the member, equal to the number of years of
13 the member's creditable service that was transferred from the Teachers'
14 and State Employees' Retirement System or the Legislative Retirement
15 System to this System as provided in G.S. 135-56."

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

17 "(a5) Any member who retires under the provisions of G.S. 135-57(a) or
18 G.S. 135-57(c) on or after July 1, 2005, after the member has either attained the
19 member's 65th birthday or has completed 24 years or more of creditable service, shall
20 receive an annual retirement allowance, payable monthly, which shall commence on the
21 effective date of the member's retirement and shall be continued on the first day of each
22 month thereafter during the member's lifetime, the amount of which shall be computed
23 as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection,
24 provided that in no event shall the annual allowance payable to any member be greater
25 than an amount which, when added to the allowance, if any, to which the member is
26 entitled under the Teachers' and State Employees' Retirement System, the Legislative
27 Retirement System, or the Local Governmental Employees' Retirement System (prior in
28 any case to any reduction for early retirement or for an optional mode of payment),
29 would total three-fourths of the member's final compensation:

- 30 (1) Four and two hundredths percent (4.02%) of the member's final
31 compensation, multiplied by the number of years of creditable service
32 rendered as a justice of the Supreme Court or judge of the Court of
33 Appeals;
- 34 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
35 compensation, multiplied by the number of years of creditable service
36 rendered as a judge of the superior court or as Administrative Officer
37 of the Courts;
- 38 (3) Three and two hundredths percent (3.02%) of the member's final
39 compensation, multiplied by the number of years of creditable service
40 rendered as a judge of the district court, district attorney, clerk of
41 superior court, or public defender;
- 42 (4) A service retirement allowance computed in accordance with the
43 service retirement provisions of Article 3 of Chapter 128 of the
44 General Statutes using an average final compensation as defined in

1 G.S. 135-53(2a) and creditable service equal to the number of years of
2 the member's creditable service that was transferred from the Local
3 Governmental Employees' Retirement System to this System as
4 provided in G.S. 135-56; and

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

13 **SECTION 8.** This act becomes effective July 1, 2005.