

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1245

Short Title: Public Defenders' Ret./Funds.

(Public)

Sponsors: Senator Martin of Guilford.

Referred to: Pensions and Retirement.

May 10, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSOLIDATED JUDICIAL RETIREMENT ACT TO
INCLUDE PUBLIC DEFENDERS.

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."

Sec. 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 public defenders who are serving on July 1, 1989, 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.

1 For public defenders of the General Court of Justice who so served prior to July 1,
2 1989, the provisions of this Article supplement and, under certain circumstances,
3 replace the provisions of Article 1 of this Chapter.

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

7 (c) The retirement benefits of any person who becomes a justice or judge, district
8 attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after
9 January 1, 1975, or public defender on or after July 1, 1989, shall be determined solely
10 in accordance with the provisions of this Article."

11 Sec. 3. G.S. 135-53 reads as rewritten:

12 **"§ 135-53. Definitions.**

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

- 15 (1) 'Accumulated contributions' with respect to any member shall mean
16 the sum of all the amounts deducted from the compensation of the
17 member pursuant to G.S. 135-68 since he last became a member and
18 credited to his account in the annuity savings fund, plus any amount
19 standing to his credit pursuant to G.S. 135-67(c) as a result of a prior
20 period of membership, plus any amounts credited to his account
21 pursuant to G.S. 135-28.1(b) or 135-56(b), together with regular
22 interest on all such amounts computed as provided in G.S. 135-7(b).
- 23 (2) 'Actuarial equivalent' shall mean a benefit of equal value when
24 computed upon the bases of such mortality tables as shall be adopted
25 by the Board of Trustees, and regular interest.
- 26 (3) 'Beneficiary' shall mean any person in receipt of a retirement
27 allowance or other benefit as provided in this Article.
- 28 (4) 'Board of Trustees' shall mean the Board of Trustees established by
29 G.S. 135-6.
- 30 (4a) 'Clerk of superior court' shall mean the clerk of superior court
31 provided for in G.S. 7A-100(a).
- 32 (5) 'Compensation' shall mean all salaries and wages derived from public
33 funds which are earned by a member of the Retirement System for his
34 service as a justice or judge, or district attorney, or clerk of superior
35 court.
- 36 (6) 'Creditable service' shall mean for any member the total of his prior
37 service plus his membership service.
- 38 (6a) 'District attorney' shall mean the district attorney or solicitor provided
39 for in G.S. 7A-60.
- 40 (7) 'Filing' when used in reference to an application for retirement shall
41 mean the receipt of an acceptable application on a form provided by
42 the Retirement System.
- 43 (8) 'Final compensation' shall mean for any member the annual equivalent
44 of the rate of compensation most recently applicable to him.

- 1 (9) 'Judge' shall mean any justice or judge of the General Court of Justice
2 and the administrative officer of the courts.
- 3 (10) 'Medical board' shall mean the board of physicians provided for in
4 G.S. 135-6.
- 5 (11) 'Member' shall mean any person included in the membership of the
6 Retirement System as provided in this Article.
- 7 (12) 'Membership service' shall mean service as a judge, district attorney,
8 or clerk of superior ~~court~~ court, or public defender, rendered while a
9 member of the Retirement System.
- 10 (13) 'Previous system' shall mean, with respect to any member, the
11 retirement benefit provisions of Article 6 and Article 8 of Chapter 7A
12 of the General Statutes, to the extent that such Article or Articles were
13 formerly applicable to the member, and in the case of judges of the
14 district court division, and district attorney, and clerk of superior ~~court~~
15 court, and public defender of the General Court of Justice, the
16 Teachers' and State Employees' Retirement System.
- 17 (13a) 'Public Defender' shall mean the public defender provided for in
18 G.S. 7A-465 and the appellate defender provided for in G.S. 7A-486.
- 19 (14) 'Prior service' shall mean service rendered by a member, prior to his
20 membership in the Retirement System, for which credit is allowable
21 under G.S. 135-56.
- 22 (15) 'Regular interest' shall mean interest compounded annually at such a
23 rate as shall be determined by the Board of Trustees in accordance
24 with G.S. 135-7(b).
- 25 (16) 'Retirement' shall mean the withdrawal from active service with a
26 retirement allowance granted under the provisions of this Chapter. In
27 order for a member's retirement to become effective in any month,
28 the member must render no service at any time during that month.
- 29 (17) 'Retirement allowance' shall mean the periodic payments to which a
30 beneficiary becomes entitled under the provisions of this Article.
- 31 (18) 'Retirement System' shall mean the 'Consolidated Judicial
32 Retirement System' of North Carolina, as established in this Article.
- 33 (19) 'Year' as used in this Article shall mean the regular fiscal year
34 beginning July 1 and ending June 30 in the following calendar year,
35 unless otherwise defined by regulation of the Board of Trustees."

36 Sec. 4. G.S. 135-54 reads as rewritten:

37 **"§ 135-54. Name and date of establishment.**

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

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

4 Sec. 5. G.S. 135-55 reads as rewritten:

5 **"§ 135-55. Membership.**

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

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

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

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

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

13 (5) All public defenders in office on July 1, 1989; and

14 (6) All persons who become public defenders or reenter service as public
15 defenders after July 1, 1989.

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
18 a judge, ~~district attorney-attorney, public defender,~~ or clerk of superior
19 court, or

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

21 (3) His death."

22 Sec. 6. G.S. 135-56 is amended by adding a new subdivision to read:

23 "(f) On and after July 1, 1989, the creditable service of a member who was a
24 public defender and a member of the Teachers' and State Employees' Retirement
25 System at the time of transfer of membership from the previous system to this
26 Retirement System shall include service as a public defender that was creditable in the
27 previous system immediately prior to July 1, 1989; provided, there shall be transferred
28 from the previous system to this Retirement System the accumulated contributions of a
29 member as a public defender in the same manner as prescribed under G.S. 135-28.1 as it
30 pertained to judges of the district court division of the General Court of Justice."

31 Sec. 7. G.S. 135-58(a) reads as rewritten:

32 "(a) Any member who retires under the provisions of subsection (a) or subsection
33 (c) of G.S. 135-57 after he either has attained his sixty-fifth birthday or has completed
34 24 years or more of creditable service shall receive an annual retirement allowance,
35 payable monthly, which shall commence on the effective date of his retirement and shall
36 be continued on the first day of each month thereafter during his lifetime, the amount of
37 which shall be computed as the sum of (1), (2) and (3) following, provided that in no
38 event shall the annual allowance payable to any member be greater than an amount
39 which, when added to the allowance, if any, to which he is entitled under the Teachers'
40 and State Employees' Retirement System, the Legislative Retirement System or the
41 North Carolina Local Governmental Employees' Retirement System (prior in any case
42 to any reduction for early retirement or for an optional mode of payment) would total
43 three fourths of his final compensation:

- 1 (1) Four percent (4%) of his final compensation, multiplied by the number
2 of years of his creditable service rendered as a justice of the Supreme
3 Court or judge of the Court of Appeals;
- 4 (2) Three and one-half percent (3 1/2%) of his final compensation,
5 multiplied by the number of years of his creditable service rendered as
6 a judge of the superior court or as administrative officer of the courts;
- 7 (3) Three percent (3%) of his final compensation, multiplied by the
8 number of years of his creditable service rendered as a judge of the
9 district court, district attorney, public defender, or clerk of superior
10 court."

11 Sec. 8. G.S. 135-28.1 is amended by adding a new subsection to read:

12 "(f) The provisions of this section, as it pertains to judges of the district court
13 division of the General Court of Justice, except as to the effective date, shall apply
14 equally to any public defender who was a member of this Retirement System
15 immediately prior to July 1, 1989, and becomes a member of the Consolidated Judicial
16 Retirement System on July 1, 1989."

17 Sec. 9. There is appropriated from the General Fund to the Judicial
18 Department \$600,000 for the 1989-90 fiscal year and \$100,000 for the 1990-91 fiscal
19 year to implement this act.

20 Sec. 10. This act shall become effective July 1, 1989.