

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1146

Short Title: Admin. Law Judges' Retirement.

(Public)

Sponsors: Representatives Michaux; and Wainwright.

Referred to: Pensions and Retirement.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO INCLUDE ADMINISTRATIVE LAW JUDGES 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, administrative law judge, district attorney and solicitor, 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 administrative law judges who are serving on July 1, 1999, and who become administrative law judges 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

1 Article supplement and, under certain circumstances, replace the provisions of Articles 6
2 and 8, as the case may be, of Chapter 7A of the General Statutes.

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

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

9 (c) The retirement benefits of any person who becomes a justice or judge, district
10 attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after
11 January 1, 1975, or administrative law judge on or after July 1, 1999, shall be determined
12 solely in accordance with the provisions of this Article."

13 Section 3. G.S. 135-53 reads as rewritten:

14 "**§ 135-53. Definitions.**

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

- 17 (1) 'Accumulated contributions' with respect to any member shall mean the
18 sum of all the amounts deducted from the compensation of the member
19 pursuant to G.S. 135-68 since he last became a member and credited to
20 his account in the annuity savings fund, plus any amount standing to his
21 credit pursuant to G.S. 135-67(c) as a result of a prior period of
22 membership, plus any amounts credited to his account pursuant to G.S.
23 135-28.1(b) or 135-56(b), together with regular interest on all such
24 amounts computed as provided in G.S. 135-7(b).
- 25 (2) 'Actuarial equivalent' shall mean a benefit of equal value when
26 computed upon the bases of such mortality tables as shall be adopted by
27 the Board of Trustees, and regular interest.
- 28 (2a) 'Administrative law judge' means administrative law judges appointed
29 pursuant to G.S. 7A-752 and G.S. 7A-753.
- 30 (3) 'Beneficiary' shall mean any person in receipt of a retirement allowance
31 or other benefit as provided in this Article.
- 32 (4) 'Board of Trustees' shall mean the Board of Trustees established by
33 G.S. 135-6.
- 34 (4a) 'Clerk of superior court' shall mean the clerk of superior court provided
35 for in G.S. 7A-100(a).
- 36 (5) 'Compensation' shall mean all salaries and wages derived from public
37 funds which are earned by a member of the Retirement System for his
38 service as a justice or judge, or administrative law judge, or district
39 attorney, or clerk of superior court.
- 40 (6) 'Creditable service' shall mean for any member the total of his prior
41 service plus his membership service.
- 42 (6a) 'District attorney' shall mean the district attorney or solicitor provided
43 for in G.S. 7A-60.

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

39 Section 4. G.S. 135-54 reads as rewritten:

40 "**§ 135-54. Name and date of establishment.**

41 A Retirement System is hereby established and placed under the management of the
42 Board of Trustees for the purpose of providing retirement allowances and other benefits
43 under the provisions of this Article for justices and judges, administrative law judge,

1 district attorneys, and clerks of superior court of the General Court of Justice of North
2 Carolina, and their survivors. The Retirement System so created shall be established as of
3 January 1, 1974.

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

7 Section 5. G.S. 135-55 reads as rewritten:

8 **"§ 135-55. Membership.**

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

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

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

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

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

16 (5) All administrative law judges in office on July 1, 1999; and

17 (6) All persons who become administrative law judges or reenter service as
18 administrative law judges after July 1, 1999.

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

20 (1) The withdrawal of his accumulated contributions after he is no longer a
21 judge, administrative law judge, district attorney, or clerk of superior
22 court, or

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

24 (3) His death."

25 Section 6. G.S. 135-56(a) reads as rewritten:

26 "(a) Subject to such rules and regulations as the Board of Trustees shall adopt with
27 regard to the verification of a judge's prior service, the prior service of a judge shall
28 consist of his service rendered prior to January 1, 1974, as a justice of the Supreme Court,
29 judge of the Court of Appeals, judge of the superior court, judge of the district court
30 division of the General Court of Justice, administrative law judge, as administrative
31 officer of the courts, or as a solicitor or district attorney."

32 Section 7. G.S. 135-56 is amended by adding a new subsection to read:

33 "(f) On and after July 1, 1999, the creditable service of a member who was an
34 administrative law judge and a member of the Teachers' and State Employees' Retirement
35 System at the time of transfer of membership from the previous system to this System
36 shall include service as an administrative law judge that was creditable in the previous
37 system immediately prior to July 1, 1999. The accumulated contributions of a member
38 as an administrative law judge shall be transferred from the previous system to this
39 System in the same manner as prescribed under G.S. 135-28.1 as it pertained to judges of
40 the district court division of the General Court of Justice."

41 Section 8. G.S. 135-58(a1) reads as rewritten:

42 "(a1) Any member who retires under the provisions of subsection (a) or subsection
43 (c) of G.S. 135-57 on or after July 1, 1990, but before July 1, 1999, after he either has

1 attained his 65th birthday or has completed 24 years or more of creditable service shall
2 receive an annual retirement allowance, payable monthly, which shall commence on the
3 effective date of his retirement and shall be continued on the first day of each month
4 thereafter during his lifetime, the amount of which shall be computed as the sum of (1),
5 (2), and (3) following, provided that in no event shall the annual allowance payable to
6 any member be greater than an amount which, when added to the allowance, if any, to
7 which he is entitled under the Teachers' and State Employees' Retirement System, the
8 Legislative Retirement System or the North Carolina Local Governmental Employees'
9 Retirement System (prior in any case to any reduction for early retirement or for an
10 optional mode of payment) would total three-fourths of his final compensation:

- 11 (1) Four and two-hundredths percent (4.02%) of his final compensation,
12 multiplied by the number of years of his creditable service rendered as a
13 justice of the Supreme Court or judge of the Court of Appeals;
- 14 (2) Three and fifty-two hundredths percent (3.52%) of his final
15 compensation, multiplied by the number of years of his creditable
16 service rendered as a judge of the superior court or as administrative
17 officer of the courts;
- 18 (3) Three and two-hundredths percent (3.02%) of his final compensation,
19 multiplied by the number of years of his creditable service rendered as a
20 judge of the district court, district attorney, or clerk of superior court."

21 Section 9. G.S. 135-58 is amended by adding a new subsection to read:

22 "(a2) Any member who retires under the provisions of subsection (a) or subsection
23 (c) of G.S. 135-57 on or after July 1, 1999, after he either has attained his 65th birthday
24 or has completed 24 years or more of creditable service shall receive an annual retirement
25 allowance, payable monthly, which shall commence on the effective date of his
26 retirement and shall be continued on the first day of each month thereafter during his
27 lifetime, the amount of which shall be computed as the sum of (1), (2), and (3) following,
28 provided that in no event shall the annual allowance payable to any member be greater
29 than an amount which, when added to the allowance, if any, to which he is entitled under
30 the Teachers' and State Employees' Retirement System, the Legislative Retirement
31 System, or the North Carolina Local Governmental Employees' Retirement System (prior
32 in any case to any reduction for early retirement or for an optional mode of payment)
33 would total three-fourths of his final compensation:

- 34 (1) Four and two-hundredths percent (4.02%) of his final compensation,
35 multiplied by the number of years of his creditable service rendered as a
36 justice of the Supreme Court or judge of the Court of Appeals;
- 37 (2) Three and fifty-two hundredths percent (3.52%) of his final
38 compensation, multiplied by the number of years of his creditable
39 service rendered as a judge of the superior court or as administrative
40 officer of the courts;
- 41 (3) Three and two-hundredths percent (3.02%) of his final compensation,
42 multiplied by the number of years of his creditable service rendered as a

1 judge of the district court, administrative law judge, district attorney, or
2 clerk of superior court."

3 Section 10. G.S. 135-56 is amended by adding a new subsection to read:

4 "(c1) On and after July 1, 1999, the creditable service of an administrative law judge
5 who was a member of the Teachers' and State Employees' Retirement System on June 30,
6 1999, and whose accumulated contributions are transferred from that System to this
7 System, includes service that was creditable in the Teachers' and State Employees'
8 Retirement System, and membership service with that System is membership service
9 with this System."

10 Section 11. This act becomes effective July 1, 1999.