

HB40 INTRODUCED



1 2J36KK-1
2 By Representative Hill
3 RFD: Ways and Means General Fund
4 First Read: 07-Mar-23
5 PFD: 23-Feb-23



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SYNOPSIS:

Under existing law, retired justices and judges may be called to active duty status and are compensated for their service.

This bill would revise the compensation retired justices and judges receive for their service.

This bill would provide that retired justices and judges receive per diem, mileage, and be provided court-supportive personnel.

This bill would require retired justices and judges to complete a minimum of six hours of approved continuing legal education.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to retired justices and judges; to amend Sections 12-18-10 and 12-18-61, Code of Alabama 1975, to revise the compensation received by retired justices and judges who are called to active duty; to require retired justices and judges be paid per diem and mileage and be



HB40 INTRODUCED

29 provided court-supportive personnel; to require continuing
30 legal education annually; and to make nonsubstantive,
31 technical revisions to update the existing code language to
32 current style.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34 Section 1. Sections 12-18-10 and 12-18-61, Code of
35 Alabama 1975, are amended to read as follows:

36 "§12-18-10

37 (a) The retirement benefit payable to a justice of the
38 Supreme Court or judge of one of the courts of appeals
39 retiring pursuant to ~~subdivision (2), (3), (4) or (5) of~~
40 ~~subsection (a) of~~ Section 12-18-6 (a) (2), (3), (4), or (5)
41 shall be 75 percent of the salary prescribed by law for the
42 position from which he or she retires, payable monthly for the
43 rest of his or her life. ~~Such~~ The benefit shall continue to be
44 75 percent of his or her salary prescribed by law for ~~such~~ the
45 position and shall change in amount as ~~such~~ the salary is
46 ~~hereafter~~ increased or decreased by law and ~~shall~~ may not be
47 subject to writs of attachment or garnishment.

48 (b) The retirement benefit payable to a judge of a
49 circuit court retiring pursuant to ~~subdivision (2), (3), (4)~~
50 ~~or (5) of subsection (b) of~~ Section 12-18-6 (b) (2), (3), (4),
51 or (5) shall be 75 percent of the salary prescribed by law of
52 the salary payable from the State Treasury to circuit judges.
53 ~~Such~~ The retirement benefits shall be payable monthly for the
54 life of the beneficiary and shall continue to be 75 percent of
55 the salary then prescribed by law for the respective position
56 and shall change in amount as ~~such~~ the salary is ~~hereafter~~



HB40 INTRODUCED

57 increased or decreased by law and ~~shall~~may not be subject to
58 writs of attachment or garnishment.

59 (c) After the death of any justice or judge who ~~had~~
60 held office for a minimum of five years, his or her spouse
61 shall receive a yearly benefit equivalent to three percent of
62 the salary payable from the State Treasury prescribed by law
63 for his or her former position as either a justice or judge,
64 ~~as the case may be~~, for each year of service, not to exceed 30
65 percent of ~~such~~the salary, payable monthly for the remainder
66 of ~~such~~the spouse's life or until his or her remarriage, and
67 ~~such~~the benefit shall change in amount as ~~such~~the salary is
68 ~~hereafter~~ increased or decreased by law.

69 (d) Any justice or judge retiring pursuant to
70 ~~subdivision (1) of subsection (a) or subdivision (1) of~~
71 ~~subsection (b) of~~ Section 12-8-6 (a) (1) or (b) (1) who has
72 served for 10 years shall be entitled to a disability benefit
73 allowance payable monthly from the Judicial Retirement Fund
74 equal to 75 percent of the salary payable from the State
75 Treasury for the position ~~he~~ held at the time he or she
76 retires. If ~~such~~the disabled justice or judge has served less
77 than 10 years, he or she shall be entitled to receive a
78 monthly disability benefit that is equal to 25 percent of the
79 salary payable from the State Treasury for the position ~~he~~
80 held at the time he or she retires plus 10 percent of ~~such~~the
81 salary for each year of service in excess of five years;
82 provided, however, that in no event shall ~~such~~a justice or
83 judge receive less than 30 percent of the annual salary being
84 paid to a full-time justice or judge, ~~as the case may be~~, from



HB40 INTRODUCED

85 the State Treasury.

86 (e) (1) Every justice of the Supreme Court, judge of a
87 court of appeals, or judge of a circuit court who has retired
88 pursuant to this article ~~may~~ or Article 7 of this chapter, on
89 the request of the Chief Justice, the presiding judge of a
90 court of appeals, or the Governor, may be called to interim
91 active duty status ~~and, when,~~ upon consent of the retired
92 justice or judge. When serving with the Supreme Court or
93 courts of appeals, he or she shall perform ~~such the~~ duties as
94 may be prescribed by the Chief Justice or the presiding judge
95 of the court of appeals ~~with which he is serving and, when.~~
96 When serving in a circuit court, he or she shall perform ~~such~~
97 the duties as may be prescribed by the presiding judge in the
98 circuit.

99 (2) ~~A~~ Such retired justice ~~or,~~ judge of a court of
100 appeals, or judge of a circuit court ~~in such active service~~
101 ~~status~~ who is called to interim active duty status, in
102 addition to his or her retirement benefits, shall receive ~~an~~
103 additional ~~sum~~ compensation during the term of ~~such service~~
104 ~~which, when added to his retirement benefits, would amount to~~
105 ~~\$250.00 per month less than the monthly salary paid a justice~~
106 ~~or judge of the appellate court from which he has retired. The~~
107 ~~salary paid a retired circuit judge called to active service~~
108 ~~with the Supreme Court or a court of appeals shall be the~~
109 ~~salary paid a circuit judge in the circuit from which said~~
110 ~~judge retired. The salary paid a retired circuit judge called~~
111 ~~to active service as a circuit judge shall be the salary paid~~
112 ~~a regular judge in the circuit to which he is assigned or in~~



HB40 INTRODUCED

113 ~~the circuit from which he retired, whichever is greater. In no~~
114 ~~event, however, shall the total compensation paid to a retired~~
115 ~~circuit judge on active status during any calendar year exceed~~
116 ~~a sum which is \$1,000.00 less than the compensation received~~
117 ~~by a regular judge in the circuit from which such judge~~
118 ~~retired~~ service in an amount of seven hundred eighty dollars
119 (\$780) per day, subject to funding. A judge may only be called
120 to interim active duty status for a maximum of 50 days in a
121 calendar year.

122 (3) A retired circuit judge may only be called to
123 interim active duty status to perform duties in a circuit
124 court when the presiding judge requests the appointment of the
125 interim judge, when the Chief Justice and Administrative
126 Office of Courts certify that the circuit where the judge will
127 serve is needed pursuant to the most recent judicial weighted
128 caseload study, and when the presiding circuit judge in the
129 circuit where the judge will serve concurs that the circuit's
130 caseload requires the service of the interim active judge.
131 Notwithstanding any other provision of law, in order for the
132 judge to continue in interim active duty status, the
133 certification required in this subdivision must be made and
134 recertified annually on the anniversary that the interim judge
135 is called into service.

136 ~~Whenever a retired justice or judge of a court of~~
137 ~~appeals is serving in a circuit court, he shall receive~~
138 ~~compensation equal to that due the regular judge of that~~
139 ~~circuit for the performance of such duties, such compensation~~
140 ~~to be paid in the same manner as the compensation of the~~



HB40 INTRODUCED

141 ~~regular circuit judge is paid; and, whenever a retired justice~~
142 ~~or a judge of a court of appeals is serving as an active~~
143 ~~member on the Supreme Court or on one of the courts of~~
144 ~~appeals, then he shall be entitled to receive, during the time~~
145 ~~of such service, compensation equal to that due a regular~~
146 ~~justice or judge for the performance of such duties, such~~
147 ~~compensation to be paid in the same manner as the compensation~~
148 ~~of a regular justice or judge is paid.~~

149 ~~A retired justice or judge of one of the courts of~~
150 ~~appeals or circuit judge, while serving with the Supreme Court~~
151 ~~or one of the courts of appeals for reasons other than the~~
152 ~~absence or disqualification of a justice or judge, shall~~
153 ~~perform such duties as may be prescribed by the Chief Justice~~
154 ~~when serving with the Supreme Court, or as prescribed by the~~
155 ~~presiding judge of the court of appeals with which he may be~~
156 ~~serving.~~

157 (4) A retired justice or judge who is called to active
158 duty pursuant to this section shall receive the same
159 per diem expenses and mileage as state employees paid from
160 funds appropriated to the Unified Judicial System.

161 Additionally, he or she shall be assigned any court and
162 court-supportive personnel necessary to perform his or her
163 duties.

164 (5) A retired justice or judge who is called to active
165 duty pursuant to this section shall complete a minimum
166 of six hours of approved continuing legal education annually.

167 (f) (1) Whether a retired justice or judge is
168 satisfactorily performing the assigned duties shall be



HB40 INTRODUCED

169 determined by the following:

170 ~~The~~ a. If the assignment is to the Supreme Court, by
171 the Chief Justice, with the advice of the Supreme Court, ~~or.~~

172 b. If the assignment is to a court of appeals, by the
173 presiding judge of ~~a~~ the applicable court of appeals, with the
174 advice of the court over which he or she presides, ~~shall~~
175 ~~determine whether such retired justice or judge is~~
176 ~~satisfactorily performing his assigned duties.~~

177 c. If the assignment is to the circuit court, by the
178 Chief Justice and the presiding circuit judge of the
179 applicable judicial circuit.

180 (2) Upon determination that ~~such~~ the retired justice or
181 judge is not satisfactorily performing ~~such~~ the duties, ~~such~~
182 the retired justice or judge shall immediately be removed from
183 interim active duty status, and ~~his~~ the additional interim
184 active duty status compensation shall be stopped.

185 (g) Except as provided in subdivision (e) (4) or
186 subsection (f) ~~of this section~~, a retired justice or judge
187 shall hold office as ~~such~~ an additional or extra judge during
188 good behavior and may be removed only for causes specified in
189 the constitution. ~~Such~~ Any retired justices or judges may, ~~however, but subject to the approval of the Chief Justice,~~ be
190 transferred to inactive status, upon request for ~~such~~ the
191 transfer. Justices or judges who revert to inactive status
192 shall be entitled to the same retirement benefits prescribed
193 in subsections (a) and (b) ~~of this section~~ for justices and
194 judges who have retired.

196 (h) Nothing ~~contained~~ in this section ~~or hereafter~~



HB40 INTRODUCED

197 shall limit the power and authority of the Chief Justice to
198 transfer a retired justice or judge from inactive status to
199 active status or from active status to inactive status as the
200 public interest in his or her judgment requires.

201 (i) The Administrative Office of Courts shall adopt
202 policies and procedures for nominations to the Chief Justice
203 and duties assigned to interim active duty status justices and
204 judges."

205 "§12-18-61

206 (a) Any district judge who has retired pursuant to this
207 article or Article 7 of this chapter may be called by the
208 Chief Justice to ~~temporary~~ interim active duty status in any
209 court, upon consent of the retired judge.

210 ~~The salary paid a retired district judge called to~~
211 ~~active duty shall be the salary paid a district judge in the~~
212 ~~district from which said district judge retired or the salary~~
213 ~~paid a resident district court judge in the district to which~~
214 ~~the judge is assigned, whichever is greater. In no event,~~
215 ~~however, shall the total compensation paid to a retired~~
216 ~~district judge on active duty during any calendar year exceed~~
217 ~~a sum which is \$1,000.00 less than the compensation received~~
218 ~~by a regular judge in the district from which said judge is~~
219 ~~retired.~~

220 ~~Such active duty may be terminated by order of the~~
221 ~~Chief Justice at any time.~~

222 (b) (1) A retired district judge who is called to
223 interim active duty status, in addition to his or her
224 retirement benefits, shall receive additional compensation,



HB40 INTRODUCED

225 during the term of service in an amount of seven hundred
226 eighty dollars (\$780) per day, subject to funding. A judge may
227 only be called to interim active duty status for a maximum of
228 50 days in a calendar year.

229 (2) A retired district judge may only be called to
230 interim active duty status to perform duties in a circuit or
231 district court when the presiding circuit judge requests the
232 appointment of the interim judge, when the Chief Justice and
233 Administrative Office of Courts certify that the circuit where
234 the judge will serve is needed pursuant to the most recent
235 judicial weighted caseload study, and when the presiding
236 circuit judge in the circuit where the judge will serve
237 concurs that the circuit's caseload requires the service of
238 the interim active judge. Notwithstanding any other provision
239 of law, in order for the judge to continue in interim active
240 duty status, the certification required in this subdivision
241 must be made and recertified annually on the anniversary that
242 the interim judge is called into service.

243 (3) A retired judge who is called to active duty status
244 pursuant to this section shall receive the same per diem
245 expenses and mileage as state employees paid from funds
246 appropriated to the Unified Judicial System. Additionally, he
247 or she shall be assigned any court and court-supportive
248 personnel necessary to perform his or her duties.

249 (4) A retired judge who is called to active duty status
250 pursuant to this section shall complete a minimum of six hours
251 of approved continuing legal education annually.

252 (c) The Chief Justice and the presiding circuit judge



HB40 INTRODUCED

253 of the applicable judicial circuit, shall determine whether a
254 retired judge is satisfactorily performing the assigned
255 duties. Upon determination that the retired judge is not
256 satisfactorily performing the duties, the retired judge shall
257 immediately be removed from interim active duty status, and
258 the additional interim active duty status compensation shall
259 cease.

260 (d) Except as provided in subdivision (b) (2) or
261 subsection (c), a retired judge shall hold office as an
262 additional or extra judge during good behavior and may only be
263 removed for causes specified in the constitution. Any retired
264 judges may be transferred to inactive status, upon request for
265 the transfer. Judges who revert to inactive status shall be
266 entitled to the same retirement benefits as prescribed
267 pursuant to this chapter.

268 (e) The Administrative Office of Courts shall adopt
269 policies and procedures for nominations to the Chief Justice
270 and duties assigned to interim active duty status judges."

271 Section 2. This act shall become effective on the first
272 day of the third month following its passage and approval by
273 the Governor, or its otherwise becoming law.