

1 SB138
2 203818-1
3 By Senator Chambliss
4 RFD: Judiciary
5 First Read: 06-FEB-20

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

A BILL
TO BE ENTITLED
AN ACT

Related 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; and to make nonsubstantive, technical revisions to update the existing code language to current style.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§12-18-10.

5 "(a) The retirement benefit payable to a justice of
6 the Supreme Court or judge of one of the courts of appeals
7 retiring pursuant to subdivision (2), (3), (4), or (5) of
8 subsection (a) of Section 12-18-6 shall be 75 percent of the
9 salary prescribed by law for the position from which he or she
10 retires, payable monthly for the rest of his or her life. ~~Such~~
11 The benefit shall continue to be 75 percent of his or her
12 salary prescribed by law for ~~such~~ the position and shall
13 change in amount as ~~such~~ the salary is ~~hereafter~~ increased or
14 decreased by law and shall not be subject to writs of
15 attachment or garnishment.

16 "(b) The retirement benefit payable to a judge of a
17 circuit court retiring pursuant to subdivision (2), (3), (4), or
18 or (5) of subsection (b) of Section 12-18-6 shall be 75
19 percent of the salary prescribed by law of the salary payable
20 from the State Treasury to circuit judges. ~~Such~~ The retirement
21 benefits shall be payable monthly for the life of the
22 beneficiary and shall continue to be 75 percent of the salary
23 then prescribed by law for the respective position and shall
24 change in amount as ~~such~~ the salary is ~~hereafter~~ increased or
25 decreased by law and shall not be subject to writs of
26 attachment or garnishment.

1 "(c) After the death of any justice or judge who ~~had~~
2 held office for a minimum of five years, his or her spouse
3 shall receive a yearly benefit equivalent to three percent of
4 the salary payable from the State Treasury prescribed by law
5 for his or her former position as either a justice or judge,
6 ~~as the case may be~~, for each year of service, not to exceed 30
7 percent of ~~such the~~ salary, payable monthly for the remainder
8 of ~~such the~~ spouse's life or until his or her remarriage, and
9 ~~such the~~ benefit shall change in amount as ~~such the~~ salary is
10 hereafter increased or decreased by law.

11 "(d) Any justice or judge retiring pursuant to
12 subdivision (1) of subsection (a) or subdivision (1) of
13 subsection (b) of Section 12-8-6 who has served for 10 years
14 shall be entitled to a disability benefit allowance payable
15 monthly from the Judicial Retirement Fund equal to 75 percent
16 of the salary payable from the State Treasury for the position
17 ~~he~~ held at the time he or she retires. If ~~such the~~ disabled
18 justice or judge has served less than 10 years, he or she
19 shall be entitled to receive a monthly disability benefit that
20 is equal to 25 percent of the salary payable from the State
21 Treasury for the position ~~he~~ held at the time he or she
22 retires plus 10 percent of ~~such the~~ salary for each year of
23 service in excess of five years; provided, however, that in no
24 event shall ~~such a~~ justice or judge receive less than 30
25 percent of the annual salary being paid to a full-time justice
26 or judge, ~~as the case may be~~, from the State Treasury.

1 "(e) (1) Every justice of the Supreme Court, judge of
2 a court of appeals, or judge of a circuit court who has
3 retired pursuant to this article or Article 7 of this chapter
4 ~~may,~~ on the request of the Chief Justice, the presiding judge
5 of a court of appeals, or the Governor, may be called to
6 interim active duty status, upon consent of the retired
7 justice or judge. ~~and, when~~ When serving with the Supreme
8 Court or courts of appeals, he or she shall perform ~~such the~~
9 duties as may be prescribed by the Chief Justice or the
10 presiding judge of the court of appeals ~~with which~~ where he or
11 she is serving. ~~and, when~~ When serving in a circuit court, he
12 or she shall perform ~~such the~~ duties as may be prescribed by
13 the presiding judge in the circuit.

14 "(2) Such A retired justice or judge of a court of
15 appeals ~~in such active service status~~ who is called to interim
16 active duty status shall receive ~~an~~ additional ~~sum~~
17 compensation during the term of ~~such service~~ ~~which, when added~~
18 ~~to his retirement benefits, would amount to \$250.00 per month~~
19 ~~less than the monthly salary paid a justice or judge of the~~
20 ~~appellate court from which he has retired~~ in an amount not to
21 exceed 25 percent of the actual salary of an active court of
22 appeals justice or judge with 20 or more years of service. ~~The~~
23 ~~salary paid a retired circuit judge called to active service~~
24 ~~with the Supreme Court or a court of appeals shall be the~~
25 ~~salary paid a circuit judge in the circuit from which said~~
26 ~~judge retired. The salary paid a retired circuit judge called~~
27 ~~to active service as a circuit judge shall be the salary paid~~

1 ~~a regular judge in the circuit to which he is assigned or in~~
2 ~~the circuit from which he retired, whichever is greater. In no~~
3 ~~event, however, shall the total compensation paid to a retired~~
4 ~~circuit judge on active status during any calendar year exceed~~
5 ~~a sum which is \$1,000.00 less than the compensation received~~
6 ~~by a regular judge in the circuit from which such judge~~
7 ~~retired.~~

8 "(3) A retired circuit judge who is called to
9 interim active duty status shall receive additional
10 compensation, during the term of service, in an amount not to
11 exceed 25 percent of the actual salary of an active circuit
12 judge with 20 or more years of service, subject to available
13 funding.

14 "(4) A retired circuit judge may only be called to
15 interim active duty status to perform duties in a circuit
16 court when the presiding judge requests the appointment of the
17 interim judge, when the Chief Justice and Administrative
18 Office of Courts certify that the circuit where the judge will
19 serve is needed pursuant to the most recent judicial weighted
20 caseload study, and when the presiding circuit judge in the
21 circuit where the judge will serve concurs that the circuit's
22 caseload requires the service of the interim active judge.
23 Notwithstanding any other provision of law, in order for the
24 judge to continue in interim active duty status, the
25 certification required in this subdivision must be made and
26 re-certified annually on the anniversary that the interim
27 judge is called into service.

1 ~~"Whenever a retired justice or judge of a court of~~
2 ~~appeals is serving in a circuit court, he shall receive~~
3 ~~compensation equal to that due the regular judge of that~~
4 ~~circuit for the performance of such duties, such compensation~~
5 ~~to be paid in the same manner as the compensation of the~~
6 ~~regular circuit judge is paid; and, whenever a retired justice~~
7 ~~or a judge of a court of appeals is serving as an active~~
8 ~~member on the Supreme Court or on one of the courts of~~
9 ~~appeals, then he shall be entitled to receive, during the time~~
10 ~~of such service, compensation equal to that due a regular~~
11 ~~justice or judge for the performance of such duties, such~~
12 ~~compensation to be paid in the same manner as the compensation~~
13 ~~of a regular justice or judge is paid.~~

14 ~~"A retired justice or judge of one of the courts of~~
15 ~~appeals or circuit judge, while serving with the Supreme Court~~
16 ~~or one of the courts of appeals for reasons other than the~~
17 ~~absence or disqualification of a justice or judge, shall~~
18 ~~perform such duties as may be prescribed by the Chief Justice~~
19 ~~when serving with the Supreme Court, or as prescribed by the~~
20 ~~presiding judge of the court of appeals with which he may be~~
21 ~~serving.~~

22 ~~"(f) (1) Whether a retired justice or judge is~~
23 ~~satisfactorily performing the assigned duties shall be~~
24 ~~determined by the following:~~

25 ~~"The a. If the assignment is to the Supreme Court,~~
26 ~~by the Chief Justice, with the advice of the Supreme Court,~~
27 ~~or.~~

1 "b. If the assignment is to a court of appeals, by
2 the presiding judge of ~~a~~ the applicable court of appeals, with
3 the advice of the court over which he or she presides, ~~shall~~
4 ~~determine whether such retired justice or judge is~~
5 ~~satisfactorily performing his assigned duties.~~

6 "c. If the assignment is to the circuit court, by
7 the Chief Justice, with the advice of the Supreme Court, and
8 the presiding circuit judge of the applicable judicial
9 circuit.

10 "(2) Upon determination that ~~such~~ the retired
11 justice or judge is not satisfactorily performing ~~such~~ the
12 duties, ~~such~~ the retired justice or judge shall immediately be
13 removed from active status, and ~~his~~ the additional active duty
14 compensation shall be stopped.

15 "(g) Except as provided in subdivision (e) (4) or
16 subsection (f) ~~of this section~~, a retired justice or judge
17 shall hold office as ~~such~~ an additional or extra judge during
18 good behavior and may be removed only for causes specified in
19 the constitution. ~~Such~~ Any retired justices or judges may,
20 ~~however, but subject to the approval of the Chief Justice,~~ be
21 transferred to inactive status, upon request for ~~such~~ the
22 transfer, ~~subject to the approval of the Chief Justice.~~
23 Justices or judges who revert to inactive status shall be
24 entitled to the same retirement benefits prescribed in
25 subsections (a) and (b) for justices and judges who have
26 retired.

1 "(h) Nothing ~~contained~~ in this section ~~or hereafter~~
2 shall limit the power and authority of the Chief Justice to
3 transfer a retired justice or judge from inactive status to
4 active status or from active status to inactive status as the
5 public interest in his or her judgment requires.

6 "(i) The Administrative Office of Courts shall adopt
7 rules for nominations to the Chief Justice and duties assigned
8 to interim active duty status justices and judges.

9 "§12-18-61.

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

14 "~~The salary paid a retired district judge called to~~
15 ~~active duty shall be the salary paid a district judge in the~~
16 ~~district from which said district judge retired or the salary~~
17 ~~paid a resident district court judge in the district to which~~
18 ~~the judge is assigned, whichever is greater. In no event,~~
19 ~~however, shall the total compensation paid to a retired~~
20 ~~district judge on active duty during any calendar year exceed~~
21 ~~a sum which is \$1,000.00 less than the compensation received~~
22 ~~by a regular judge in the district from which said judge is~~
23 ~~retired or subject to the approval of the Chief Justice.~~

24 "(b) (1) A retired district judge who is called to
25 interim active duty status shall receive additional
26 compensation, during the term of service, in an amount not to
27 exceed 25 percent of the actual salary of an active district

1 judge with 20 or more years of service, subject to available
2 funding.

3 "(2) A retired district judge may only be called to
4 interim active duty status to perform duties in a circuit or
5 district court when the presiding circuit judge requests the
6 appointment of the interim judge, when the Chief Justice and
7 Administrative Office of Courts certify that the circuit where
8 the judge will serve is needed pursuant to the most recent
9 judicial weighted caseload study, and when the presiding
10 circuit judge in the circuit where the judge will serve
11 concurs that the circuit's caseload requires the service of
12 the interim active judge. Notwithstanding any other provision
13 of law, in order for the judge to continue in interim active
14 duty status, the certification required in this subdivision
15 must be made and re-certified annually on the anniversary that
16 the interim judge is called into service.

17 ~~"Such active duty may be terminated by order of the~~
18 ~~Chief Justice at any time.~~

19 "(c) The Chief Justice, with the advice of the
20 Supreme Court, and the presiding circuit judge of the
21 applicable judicial circuit, shall determine whether a retired
22 judge is satisfactorily performing the assigned duties. Upon
23 determination that the retired judge is not satisfactorily
24 performing the duties, the retired judge shall immediately be
25 removed from active duty status, and the additional active
26 duty compensation shall cease.

1 "(d) Except as provided in subdivision (b) (2) or
2 subsection (c), a retired judge shall hold office as an
3 additional or extra judge during good behavior and may be
4 removed only for causes specified in the constitution. Any
5 retired judges may be transferred to inactive status, upon
6 request for the transfer. Judges who revert to inactive status
7 shall be entitled to the same retirement benefits prescribed
8 pursuant to this chapter.

9 ~~"(e) Nothing contained in this section shall limit~~
10 ~~the power and authority of the Chief Justice to transfer a~~
11 ~~retired judge from inactive status to active status or from~~
12 ~~active status to inactive status as the public interest in his~~
13 ~~or her judgment requires.~~

14 "(e) The Administrative Office of Courts shall adopt
15 rules for nominations to the Chief Justice and duties assigned
16 to interim active duty status judges."

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