

1 HB109  
2 208663-1  
3 By Representative Hill  
4 RFD: Ways and Means General Fund  
5 First Read: 02-FEB-21  
6 PFD: 01/26/2021

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(a) (2), (3), (4), or (5)  
9 shall be 75 percent of the salary prescribed by law for the  
10 position from which he or she retires, payable monthly for the  
11 rest of his or her life. ~~Such~~ The benefit shall continue to be  
12 75 percent of his or her salary prescribed by law for ~~such the~~  
13 position and shall change in amount as ~~such the~~ salary is  
14 ~~hereafter~~ increased or decreased by law and ~~shall~~ may not be  
15 subject to writs of attachment or garnishment.

16 "(b) The retirement benefit payable to a judge of a  
17 circuit court retiring pursuant to ~~subdivision (2), (3), (4)~~  
18 ~~or (5) of subsection (b) of~~ Section 12-18-6(b) (2), (3), (4),  
19 or (5) shall be 75 percent of the salary prescribed by law of  
20 the salary payable from the State Treasury to circuit judges.  
21 ~~Such~~ The retirement benefits shall be payable monthly for the  
22 life of the beneficiary and shall continue to be 75 percent of  
23 the salary then prescribed by law for the respective position  
24 and shall change in amount as ~~such the~~ salary is ~~hereafter~~  
25 increased or decreased by law and ~~shall~~ may not be subject to  
26 writs of 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 (a) (1) or (b) (1) who has  
14 served for 10 years shall be entitled to a disability benefit  
15 allowance payable monthly from the Judicial Retirement Fund  
16 equal to 75 percent of the salary payable from the State  
17 Treasury for the position ~~he~~ held at the time he or she  
18 retires. If ~~such the~~ disabled justice or judge has served less  
19 than 10 years, he or she shall be entitled to receive a  
20 monthly disability benefit that is equal to 25 percent of the  
21 salary payable from the State Treasury for the position ~~he~~  
22 held at the time he or she retires plus 10 percent of ~~such the~~  
23 salary for each year of service in excess of five years;  
24 provided, however, that in no event shall ~~such a~~ justice or  
25 judge receive less than 30 percent of the annual salary being  
26 paid to a full-time justice or judge, ~~as the case may be~~, from  
27 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, in addition to his or her retirement  
17 benefits, shall receive ~~an~~ additional ~~sum~~ compensation during  
18 the term of ~~such service which, when added to his retirement~~  
19 ~~benefits, would amount to \$250.00 per month less than the~~  
20 ~~monthly salary paid a justice or judge of the appellate court~~  
21 ~~from which he has retired~~ ~~The salary paid a retired circuit~~  
22 ~~judge called to active service with the Supreme Court or a~~  
23 ~~court of appeals shall be the salary paid a circuit judge in~~  
24 ~~the circuit from which said judge retired. The salary paid a~~  
25 ~~retired circuit judge called to active service as a circuit~~  
26 ~~judge shall be the salary paid a regular judge in the circuit~~  
27 ~~to which he is assigned or in the circuit from which he~~

1 ~~retired, whichever is greater. In no event, however, shall the~~  
2 ~~total compensation paid to a retired circuit judge on active~~  
3 ~~status during any calendar year exceed a sum which is~~  
4 ~~\$1,000.00 less than the compensation received by a regular~~  
5 ~~judge in the circuit from which such judge retired. in an~~  
6 ~~amount not to exceed 25 percent of the actual salary of an~~  
7 ~~active court of appeals justice or judge with 20 or more years~~  
8 ~~of service.~~

9 "(3) A retired circuit judge who is called to  
10 interim active duty status, in addition to his or her  
11 retirement benefits, shall receive additional compensation,  
12 during the term of service, in an amount not to exceed 25  
13 percent of the actual salary of an active circuit judge with  
14 20 or more years of service, subject to available funding.

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

1 recertified annually on the anniversary that the interim judge  
2 is called into service.

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

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

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

1           ~~The~~ a. If the assignment is to the Supreme Court,  
2 by the Chief Justice, with the advice of the Supreme Court,  
3 or.

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

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

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

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



1 subsections (a) and (b) for justices and judges who have  
2 retired.

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

8 "(i) The Administrative Office of Courts shall adopt  
9 policies and procedures for nominations to the Chief Justice  
10 and duties assigned to interim active duty status justices and  
11 judges.

12 "§12-18-61.

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

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

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

3           "(b) (1) A retired district judge who is called to  
4 interim active duty status, in addition to his or her  
5 retirement benefits, shall receive additional compensation,  
6 during the term of service, in an amount not to exceed 25  
7 percent of the actual salary of an active district judge with  
8 20 or more years of service, subject to available funding.

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

23           "(c) The Chief Justice, with the advice of the  
24 Supreme Court, and the presiding circuit judge of the  
25 applicable judicial circuit, shall determine whether a retired  
26 judge is satisfactorily performing the assigned duties. Upon  
27 determination that the retired judge is not satisfactorily

1 performing the duties, the retired judge shall immediately be  
2 removed from active duty status, and the additional active  
3 duty compensation shall cease.

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

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

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