



**House Ways and Means General Fund Engrossed
Substitute for HB40**

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§12-18-10

(a) The retirement benefit payable to a justice of the Supreme Court or judge of one of the courts of appeals retiring pursuant to ~~subdivision (2), (3), (4) or (5) of subsection (a) of~~ Section 12-18-6 (a) (2), (3), (4), or (5) shall be 75 percent of the salary prescribed by law for the position from which he or she retires, payable monthly for the rest of his or her life. ~~Such~~ The benefit shall continue to be



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29 75 percent of his or her salary prescribed by law for ~~such~~ the
30 position and shall change in amount as ~~such~~ the salary is
31 ~~hereafter~~ increased or decreased by law and ~~shall~~ may not be
32 subject to writs of attachment or garnishment.

33 (b) The retirement benefit payable to a judge of a
34 circuit court retiring pursuant to ~~subdivision (2), (3), (4)~~
35 ~~or (5) of subsection (b) of~~ Section 12-18-6 (b) (2), (3), (4),
36 or (5) shall be 75 percent of the salary prescribed by law of
37 the salary payable from the State Treasury to circuit judges.
38 ~~Such~~ The retirement benefits shall be payable monthly for the
39 life of the beneficiary and shall continue to be 75 percent of
40 the salary then prescribed by law for the respective position
41 and shall change in amount as ~~such~~ the salary is ~~hereafter~~
42 increased or decreased by law and ~~shall~~ may not be subject to
43 writs of attachment or garnishment.

44 (c) After the death of any justice or judge who ~~had~~
45 held office for a minimum of five years, his or her spouse
46 shall receive a yearly benefit equivalent to three percent of
47 the salary payable from the State Treasury prescribed by law
48 for his or her former position as either a justice or judge,
49 ~~as the case may be~~, for each year of service, not to exceed 30
50 percent of ~~such~~ the salary, payable monthly for the remainder
51 of ~~such~~ the spouse's life or until his or her remarriage, and
52 ~~such~~ the benefit shall change in amount as ~~such~~ the salary is
53 ~~hereafter~~ increased or decreased by law.

54 (d) Any justice or judge retiring pursuant to
55 ~~subdivision (1) of subsection (a) or subdivision (1) of~~
56 ~~subsection (b) of~~ Section 12-8-6 (a) (1) or (b) (1) who has



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57 served for 10 years shall be entitled to a disability benefit
58 allowance payable monthly from the Judicial Retirement Fund
59 equal to 75 percent of the salary payable from the State
60 Treasury for the position ~~he~~ held at the time he or she
61 retires. If ~~such the~~ disabled justice or judge has served less
62 than 10 years, he or she shall be entitled to receive a
63 monthly disability benefit that is equal to 25 percent of the
64 salary payable from the State Treasury for the position ~~he~~
65 held at the time he or she retires plus 10 percent of ~~such the~~
66 salary for each year of service in excess of five years;
67 provided, however, that in no event shall ~~such a~~ justice or
68 judge receive less than 30 percent of the annual salary being
69 paid to a full-time justice or judge, ~~as the case may be,~~ from
70 the State Treasury.

71 (e) (1) Every justice of the Supreme Court, judge of a
72 court of appeals, or judge of a circuit court who has retired
73 pursuant to this article ~~may or~~ Article 7 of this chapter, on
74 the request of the Chief Justice, the presiding judge of a
75 court of appeals, or the Governor, may be called to interim
76 active duty status ~~and, when,~~ upon consent of the retired
77 justice or judge. When serving with the Supreme Court or
78 courts of appeals, he or she shall perform ~~such the~~ duties as
79 may be prescribed by the Chief Justice or the presiding judge
80 of the court of appeals ~~with which he is serving and, when.~~
81 When serving in a circuit court, he or she shall perform ~~such~~
82 the duties as may be prescribed by the presiding judge in the
83 circuit.

84 (2) ~~A~~ ~~Such~~ retired justice ~~or,~~ judge of a court of



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85 appeals, or judge of a circuit court ~~in such active service~~
86 ~~status~~ who is called to interim active duty status, in
87 addition to his or her retirement benefits, shall receive ~~an~~
88 additional ~~sum~~ compensation during the term of ~~such service~~
89 ~~which, when added to his retirement benefits, would amount to~~
90 ~~\$250.00 per month less than the monthly salary paid a justice~~
91 ~~or judge of the appellate court from which he has retired. The~~
92 ~~salary paid a retired circuit judge called to active service~~
93 ~~with the Supreme Court or a court of appeals shall be the~~
94 ~~salary paid a circuit judge in the circuit from which said~~
95 ~~judge retired. The salary paid a retired circuit judge called~~
96 ~~to active service as a circuit judge shall be the salary paid~~
97 ~~a regular judge in the circuit to which he is assigned or in~~
98 ~~the circuit from which he retired, whichever is greater. In no~~
99 ~~event, however, shall the total compensation paid to a retired~~
100 ~~circuit judge on active status during any calendar year exceed~~
101 ~~a sum which is \$1,000.00 less than the compensation received~~
102 ~~by a regular judge in the circuit from which such judge~~
103 ~~retired~~ service in an amount of seven hundred eighty dollars
104 (\$780) per day, subject to state funding. A judge may only be
105 called to interim active duty status for a maximum of 50 days
106 in a calendar year.

107 (3) A retired circuit judge may only be called to
108 interim active duty status to perform duties in a circuit
109 court when the presiding judge requests the appointment of the
110 interim judge, when the Chief Justice and Administrative
111 Office of Courts certify that the circuit where the judge will
112 serve is needed pursuant to the most recent judicial weighted



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113 caseload study, and when the presiding circuit judge in the
114 circuit where the judge will serve concurs that the circuit's
115 caseload requires the service of the interim active judge.
116 Notwithstanding any other provision of law, in order for the
117 judge to continue in interim active duty status, the
118 certification required in this subdivision must be made and
119 recertified annually on the anniversary that the interim judge
120 is called into service.

121 ~~Whenever a retired justice or judge of a court of~~
122 ~~appeals is serving in a circuit court, he shall receive~~
123 ~~compensation equal to that due the regular judge of that~~
124 ~~circuit for the performance of such duties, such compensation~~
125 ~~to be paid in the same manner as the compensation of the~~
126 ~~regular circuit judge is paid; and, whenever a retired justice~~
127 ~~or a judge of a court of appeals is serving as an active~~
128 ~~member on the Supreme Court or on one of the courts of~~
129 ~~appeals, then he shall be entitled to receive, during the time~~
130 ~~of such service, compensation equal to that due a regular~~
131 ~~justice or judge for the performance of such duties, such~~
132 ~~compensation to be paid in the same manner as the compensation~~
133 ~~of a regular justice or judge is paid.~~

134 ~~A retired justice or judge of one of the courts of~~
135 ~~appeals or circuit judge, while serving with the Supreme Court~~
136 ~~or one of the courts of appeals for reasons other than the~~
137 ~~absence or disqualification of a justice or judge, shall~~
138 ~~perform such duties as may be prescribed by the Chief Justice~~
139 ~~when serving with the Supreme Court, or as prescribed by the~~
140 ~~presiding judge of the court of appeals with which he may be~~



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141 ~~servicing.~~

142 (4) A retired justice or judge who is called to active
143 duty status pursuant to this section shall receive the same
144 per diem expenses and mileage as state employees paid from
145 funds appropriated to the Unified Judicial System.
146 Additionally, he or she shall be assigned any court and
147 court-supportive personnel necessary to perform his or her
148 duties.

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

152 (f) (1) Whether a retired justice or judge is
153 satisfactorily performing the assigned duties shall be
154 determined by the following:

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

157 b. If the assignment is to a court of appeals, by the
158 presiding judge of a ~~the applicable~~ court of appeals, with the
159 advice of the court over which he or she presides, ~~shall~~
160 ~~determine whether such retired justice or judge is~~
161 ~~satisfactorily performing his assigned duties.~~

162 c. If the assignment is to the circuit court, by the
163 Chief Justice and the presiding circuit judge of the
164 applicable judicial circuit.

165 (2) Upon determination that ~~such~~ the retired justice or
166 judge is not satisfactorily performing ~~such~~ the duties, such
167 the retired justice or judge shall immediately be removed from
168 interim active duty status, and ~~his~~ the additional interim



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169 active duty status compensation shall be stopped.

170 (g) Except as provided in subdivision (e) (4) or
171 subsection (f) ~~of this section~~, a retired justice or judge
172 shall hold office as ~~such~~ an additional or extra judge during
173 good behavior and may be removed only for causes specified in
174 the constitution. ~~Such~~ Any retired justices or judges may, ~~however, but subject to the approval of the Chief Justice,~~
175 ~~however, but subject to the approval of the Chief Justice,~~ be
176 transferred to inactive status, upon request for ~~such~~ the
177 transfer. Justices or judges who revert to inactive status
178 shall be entitled to the same retirement benefits prescribed
179 in subsections (a) and (b) ~~of this section~~ for justices and
180 judges who have retired.

181 (h) Nothing ~~contained~~ in this section ~~or hereafter~~
182 shall limit the power and authority of the Chief Justice to
183 transfer a retired justice or judge from inactive status to
184 active status or from active status to inactive status as the
185 public interest in his or her judgment requires.

186 (i) The Administrative Office of Courts shall adopt
187 policies and procedures for nominations to the Chief Justice
188 and duties assigned to interim active duty status justices and
189 judges."

190 "§12-18-61

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

195 ~~The salary paid a retired district judge called to~~
196 ~~active duty shall be the salary paid a district judge in the~~



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197 ~~district from which said district judge retired or the salary~~
198 ~~paid a resident district court judge in the district to which~~
199 ~~the judge is assigned, whichever is greater. In no event,~~
200 ~~however, shall the total compensation paid to a retired~~
201 ~~district judge on active duty during any calendar year exceed~~
202 ~~a sum which is \$1,000.00 less than the compensation received~~
203 ~~by a regular judge in the district from which said judge is~~
204 ~~retired.~~

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

207 (b) (1) A retired district judge who is called to
208 interim active duty status, in addition to his or her
209 retirement benefits, shall receive additional compensation,
210 during the term of service in an amount of seven hundred
211 eighty dollars (\$780) per day, subject to state funding. A
212 judge may only be called to interim active duty status for a
213 maximum of 50 days in a calendar year.

214 (2) A retired district judge may only be called to
215 interim active duty status to perform duties in a circuit or
216 district court when the presiding circuit judge requests the
217 appointment of the interim judge, when the Chief Justice and
218 Administrative Office of Courts certify that the circuit where
219 the judge will serve is needed pursuant to the most recent
220 judicial weighted caseload study, and when the presiding
221 circuit judge in the circuit where the judge will serve
222 concurs that the circuit's caseload requires the service of
223 the interim active judge. Notwithstanding any other provision
224 of law, in order for the judge to continue in interim active



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225 duty status, the certification required in this subdivision
226 must be made and recertified annually on the anniversary that
227 the interim judge is called into service.

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

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

237 (c) The Chief Justice and the presiding circuit judge
238 of the applicable judicial circuit, shall determine whether a
239 retired judge is satisfactorily performing the assigned
240 duties. Upon determination that the retired judge is not
241 satisfactorily performing the duties, the retired judge shall
242 immediately be removed from interim active duty status, and
243 the additional interim active duty status compensation shall
244 cease.

245 (d) Except as provided in subdivision (b) (2) or
246 subsection (c), a retired judge shall hold office as an
247 additional or extra judge during good behavior and may only be
248 removed for causes specified in the constitution. Any retired
249 judges may be transferred to inactive status, upon request for
250 the transfer. Judges who revert to inactive status shall be
251 entitled to the same retirement benefits as prescribed
252 pursuant to this chapter.



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

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