

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 494

Short Title: Pub. Def./App. Def. Retirement.

(Public)

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Sponsors: Senators Rand; Ballance, Gulley, and Wellons.

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Referred to: Appropriations.

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March 25, 1997

A BILL TO BE ENTITLED

AN ACT TO INCLUDE PUBLIC DEFENDERS AND THE APPELLATE DEFENDER  
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, district attorney and solicitor, public defender, 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 public defenders who are serving on July 1, 1997, and who become public defenders 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 Article supplement and, under certain circumstances, replace the provisions of Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

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

4 For public defenders of the General Court of Justice who so served prior to July 1,  
5 1997, the provisions of this Article supplement and, under certain circumstances, replace  
6 the provisions of Article 1 of this Chapter.

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

10 (c) The retirement benefits of any person who becomes a justice or judge, district  
11 attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after  
12 January 1, 1975, or public defender on or after July 1, 1997, shall be determined solely in  
13 accordance with the provisions of this Article."

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

15 "**§ 135-53. Definitions.**

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

- 18 (1) 'Accumulated contributions' with respect to any member shall mean the  
19 sum of all the amounts deducted from the compensation of the member  
20 pursuant to G.S. 135-68 since he last became a member and credited to  
21 his account in the annuity savings fund, plus any amount standing to his  
22 credit pursuant to G.S. 135-67(c) as a result of a prior period of  
23 membership, plus any amounts credited to his account pursuant to G.S.  
24 135-28.1(b) or 135-56(b), together with regular interest on all such  
25 amounts computed as provided in G.S. 135-7(b).
- 26 (2) 'Actuarial equivalent' shall mean a benefit of equal value when  
27 computed upon the bases of such mortality tables as shall be adopted by  
28 the Board of Trustees, and regular interest.
- 29 (3) 'Beneficiary' shall mean any person in receipt of a retirement allowance  
30 or other benefit as provided in this Article.
- 31 (4) 'Board of Trustees' shall mean the Board of Trustees established by G.S.  
32 135-6.
- 33 (4a) 'Clerk of superior court' shall mean the clerk of superior court provided  
34 for in G.S. 7A-100(a).
- 35 (5) 'Compensation' shall mean all salaries and wages derived from public  
36 funds which are earned by a member of the Retirement System for his  
37 service as a justice or judge, or district attorney, or clerk of superior  
38 court.
- 39 (6) 'Creditable service' shall mean for any member the total of his prior  
40 service plus his membership service.
- 41 (6a) 'District attorney' shall mean the district attorney or solicitor provided  
42 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, district attorney, or  
13 clerk of superior court—court, or public defender 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~~ district attorney, public defender, and clerk of  
20 superior court of the General Court of Justice, the Teachers' and State  
21 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 (14a) 'Public defender' means the public defender provided for in G.S.  
26 7A-465 and the appellate defender provided for in G.S. 7A-486.
- 27 (15) 'Regular interest' shall mean interest compounded annually at such a rate  
28 as shall be determined by the Board of Trustees in accordance with G.S.  
29 135-7(b).
- 30 (16) 'Retirement' shall mean the withdrawal from active service with a  
31 retirement allowance granted under the provisions of this Chapter. In  
32 order for a member's retirement to become effective in any month, the  
33 member must render no service at any time during that month.
- 34 (17) 'Retirement allowance' shall mean the periodic payments to which a  
35 beneficiary becomes entitled under the provisions of this Article.
- 36 (18) 'Retirement System' shall mean the 'Consolidated Judicial Retirement  
37 System' of North Carolina, as established in this Article.
- 38 (19) 'Year' as used in this Article shall mean the regular fiscal year beginning  
39 July 1 and ending June 30 in the following calendar year, unless  
40 otherwise defined by regulation of the Board of Trustees."

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

42 "§ 135-54. Name and date of establishment.

1 A Retirement System is hereby established and placed under the management of the  
2 Board of Trustees for the purpose of providing retirement allowances and other benefits  
3 under the provisions of this Article for justices and judges, district attorneys, public  
4 defenders, and clerks of superior court of the General Court of Justice of North Carolina,  
5 and their survivors. The Retirement System so created shall be established as of January  
6 1, 1974.

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

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

11 "**§ 135-55. Membership.**

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

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

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

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

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

19 (5) All public defenders in office on July 1, 1997; and

20 (6) All persons who become public defenders or reenter service as public  
21 defenders after July 1, 1997.

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

23 (1) The withdrawal of his accumulated contributions after he is no longer a  
24 judge, district ~~attorney-~~attorney, public defender, or clerk of superior  
25 court, or

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

27 (3) His death."

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

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

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

36 "(f) On and after July 1, 1997, the creditable service of a member who was a public  
37 defender and a member of the Teachers' and State Employees' Retirement System at the  
38 time of transfer of membership from the previous system to this System shall include  
39 service as a public defender that was creditable in the previous system immediately prior  
40 to July 1, 1997. The accumulated contributions of a member as a public defender shall  
41 be transferred from the previous system to this System in the same manner as prescribed  
42 under G.S. 135-28.1 as it pertained to judges of the district court division of the General  
43 Court of Justice."

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

2 "(a1) Any member who retires under the provisions of subsection (a) or subsection  
3 (c) of G.S. 135-57 on or after July 1, 1990, but before July 1, 1997, after he either has  
4 attained his 65th birthday or has completed 24 years or more of creditable service shall  
5 receive an annual retirement allowance, payable monthly, which shall commence on the  
6 effective date of his retirement and shall be continued on the first day of each month  
7 thereafter during his lifetime, the amount of which shall be computed as the sum of (1),  
8 (2), and (3) following, provided that in no event shall the annual allowance payable to  
9 any member be greater than an amount which, when added to the allowance, if any, to  
10 which he is entitled under the Teachers' and State Employees' Retirement System, the  
11 Legislative Retirement System or the North Carolina Local Governmental Employees'  
12 Retirement System (prior in any case to any reduction for early retirement or for an  
13 optional mode of payment) would total three-fourths of his final compensation:

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

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

25 "(a2) Any member who retires under the provisions of subsection (a) or subsection  
26 (c) of G.S. 135-57 on or after July 1, 1997, after he either has attained his 65th birthday  
27 or has completed 24 years or more of creditable service shall receive an annual retirement  
28 allowance, payable monthly, which shall commence on the effective date of his  
29 retirement and shall be continued on the first day of each month thereafter during his  
30 lifetime, the amount of which shall be computed as the sum of (1), (2), and (3) following,  
31 provided that in no event shall the annual allowance payable to any member be greater  
32 than an amount which, when added to the allowance, if any, to which he is entitled under  
33 the Teachers' and State Employees' Retirement System, the Legislative Retirement  
34 System, or the North Carolina Local Governmental Employees' Retirement System (prior  
35 in any case to any reduction for early retirement or for an optional mode of payment)  
36 would total three-fourths of his final compensation:

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

1           (3) Three and two-hundredths percent (3.02%) of his final compensation,  
2           multiplied by the number of years of his creditable service rendered as a  
3           judge of the district court, district attorney, clerk of superior court, or  
4           public defender."

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

6           "(c) On and after July 1, 1997, the creditable service of a public defender of a  
7           member who was a member of the Teachers' and State Employees' Retirement System on  
8           June 30, 1997, and whose accumulated contributions are transferred from that System to  
9           this System, includes service that was creditable in the Teachers' and State Employees'  
10          Retirement System, and membership service with that System is membership service  
11          with this System."

12          Section 11. This act becomes effective July 1, 1997.