

1 HB74  
2 207603-1  
3 By Representative Hill  
4 RFD: Ways and Means General Fund  
5 First Read: 02-FEB-21  
6 PFD: 11/30/2020

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

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; 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. The Chief Justice, with the advice of the  
26 Supreme Court, or if the assignment is to the Supreme Court.

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

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

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~~ cease.

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.~~

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) The Administrative Office of Courts shall adopt  
10 rules for nominations to the Chief Justice and duties assigned  
11 to interim active duty status judges."

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