

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**SENATE BILL 599**

Short Title: Appellate Clerks in Judicial Retire. System. (Public)

Sponsors: Senator Clodfelter.

Referred to: Pensions & Retirement & Aging.

March 16, 2009

A BILL TO BE ENTITLED

AN ACT TO INCLUDE THE CLERK OF THE SUPREME COURT AND THE CLERK OF  
THE COURT OF APPEALS 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, the Director of Indigent Defense Services, ~~and~~ clerk of superior court, clerk of the Supreme Court, and clerk of the Court of Appeals 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 after that date; and for all public defenders who are serving on July 1, 2007, and who become public defenders after that date; and for the Director of Indigent Defense Services who is serving on July 1, 2008, and those who become Director of Indigent Defense Services after that ~~date.~~ date; and for all clerks of the Supreme Court and clerks of the Court of Appeals who are serving on July 1, 2009, and who become clerks 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.

For district attorneys and judges of the district court 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 Article 1 of this Chapter.

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

(c) The retirement benefits of any person who becomes a justice or judge, district attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after January 1, 1975, or public defender on or after July 1, 2007, or the Director of Indigent Defense Services on or after July 1, 2008, or clerk of the Supreme Court or clerk of the Court of Appeals on or after July 1, 2009, shall be determined solely in accordance with the provisions of this Article."



1           **SECTION 3.** G.S. 135-53 reads as rewritten:

2   **"§ 135-53. Definitions.**

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

- 5           (1) "Accumulated contributions" with respect to any member shall mean the  
6 sum of all the amounts deducted from the compensation of the member  
7 pursuant to G.S. 135-68 since he last became a member and credited to his  
8 account in the annuity savings fund, plus any amount standing to his credit  
9 pursuant to G.S. 135-67(c) as a result of a prior period of membership, plus  
10 any amounts credited to his account pursuant to G.S. 135-28.1(b) or  
11 135-56(b), together with regular interest on all such amounts computed as  
12 provided in G.S. 135-7(b).
- 13           (2) "Actuarial equivalent" shall mean a benefit of equal value when computed  
14 upon the bases of such mortality tables as shall be adopted by the Board of  
15 Trustees, and regular interest.
- 16           (2a) "Average final compensation" shall mean the average annual compensation  
17 of a member during the 48 consecutive calendar months of membership  
18 service producing the highest such average.
- 19           (3) "Beneficiary" shall mean any person in receipt of a retirement allowance or  
20 other benefit as provided in this Article.
- 21           (4) "Board of Trustees" shall mean the Board of Trustees established by  
22 G.S. 135-6.
- 23           (4a) "Clerk of superior court" shall mean the clerk of superior court provided for  
24 in G.S. 7A-100(a).
- 25           (4b) "Clerk of the Supreme Court" means the clerk of the Supreme Court  
26 provided for in G.S. 7A-11.
- 27           (4c) "Clerk of the Court of Appeals" means the clerk of the Court of Appeals  
28 provided for in G.S. 7A-20.
- 29           (5) "Compensation" shall mean all salaries and wages derived from public funds  
30 which are earned by a member of the Retirement System for his service as a  
31 justice or judge, or district attorney, or clerk of superior court, or public  
32 defender, or the Director of Indigent Defense ~~Services.~~ Services, or clerk of  
33 the Supreme Court or clerk of the Court of Appeals.
- 34           (6) "Creditable service" shall mean for any member the total of his prior service  
35 plus his membership service.
- 36           (6a) "Director of Indigent Defense Services" shall mean the Director of Indigent  
37 Defense Services as provided for in G.S. 7A-498.6.
- 38           (6b) "District attorney" shall mean the district attorney or solicitor provided for in  
39 G.S. 7A-60.
- 40           (7) "Filing" when used in reference to an application for retirement shall mean  
41 the receipt of an acceptable application on a form provided by the  
42 Retirement System.
- 43           (8) "Final compensation" shall mean for any member the annual equivalent of  
44 the rate of compensation most recently applicable to him.
- 45           (9) "Judge" shall mean any justice or judge of the General Court of Justice and  
46 the administrative officer of the courts.
- 47           (10) "Medical board" shall mean the board of physicians provided for in  
48 G.S. 135-6.
- 49           (11) "Member" shall mean any person included in the membership of the  
50 Retirement System as provided in this Article.

- 1 (12) "Membership service" shall mean service as a judge, district attorney, clerk  
2 of superior court, public defender, ~~or the Director of Indigent Defense~~  
3 ~~Services Services, clerk of the Supreme Court, or clerk of the Court of~~  
4 Appeals rendered while a member of the Retirement System.
- 5 (13) "Previous system" shall mean, with respect to any member, the retirement  
6 benefit provisions of Article 6 and Article 8 of Chapter 7A of the General  
7 Statutes, to the extent that such Article or Articles were formerly applicable  
8 to the member, and in the case of judges of the district court division, district  
9 attorney, public defender, the Director of Indigent Defense Services, and and  
10 clerk of superior court of the General Court of Justice, the Teachers' and  
11 State Employees' Retirement System.
- 12 (14) "Prior service" shall mean service rendered by a member, prior to his  
13 membership in the Retirement System, for which credit is allowable under  
14 G.S. 135-56.
- 15 (14a) "Public defender" means a public defender provided for in G.S. 7A-498.7,  
16 the appellate defender provided for in G.S. 7A-498.8, the capital defender,  
17 and the juvenile defender.
- 18 (15) "Regular interest" shall mean interest compounded annually at such a rate as  
19 shall be determined by the Board of Trustees in accordance with  
20 G.S. 135-7(b).
- 21 (16) "Retirement" shall mean the withdrawal from active service with a  
22 retirement allowance granted under the provisions of this Chapter. In order  
23 for a member's retirement to become effective in any month, the member  
24 must render no service at any time during that month.
- 25 (17) "Retirement allowance" shall mean the periodic payments to which a  
26 beneficiary becomes entitled under the provisions of this Article.
- 27 (18) "Retirement System" shall mean the "Consolidated Judicial Retirement  
28 System" of North Carolina, as established in this Article.
- 29 (19) "Year" as used in this Article shall mean the regular fiscal year beginning  
30 July 1 and ending June 30 in the following calendar year, unless otherwise  
31 defined by regulation of the Board of Trustees."

32 **SECTION 4.** G.S. 135-54 reads as rewritten:

33 **"§ 135-54. Name and date of establishment.**

34 A Retirement System is hereby established and placed under the management of the Board  
35 of Trustees for the purpose of providing retirement allowances and other benefits under the  
36 provisions of this Article for justices and judges, district attorneys, public defenders, the  
37 Director of Indigent Defense Services, ~~and clerks of superior court court, clerks of the Supreme~~  
38 Court, and clerks of the Court of Appeals of the General Court of Justice of North Carolina,  
39 and their survivors. The Retirement System so created shall be established as of January 1,  
40 1974.

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

44 **SECTION 5.** G.S. 135-55 reads as rewritten:

45 **"§ 135-55. Membership.**

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

- 47 (1) All judges and district attorneys in office on January 1, 1974;  
48 (2) All persons who become judges and district attorneys or reenter service as  
49 judges and district attorneys after January 1, 1974;  
50 (3) All clerks of superior court in office on January 1, 1975;

- 1 (4) All persons who become clerks of superior court or reenter service as clerks  
2 of superior court after January 1, 1975;
- 3 (5) All public defenders in office on July 1, 2007;
- 4 (6) All persons who become public defenders or reenter service as public  
5 defenders after July 1, 2007;
- 6 (7) The Director of Indigent Defense Services on July 1, 2008; ~~and~~
- 7 (8) All persons who become the Director of Indigent Defense Services or  
8 reenter service as the Director of Indigent Defense Services after July 1,  
9 ~~2008~~ 2008;
- 10 (8) All clerks of the Supreme Court and clerks of the Court of Appeals in office  
11 on July 1, 2009; and
- 12 (9) All persons who become clerks of the Supreme Court and clerks of the Court  
13 of Appeals or reenter service as clerks of the Supreme Court and clerks of  
14 the Court of Appeals after July 1, 2009.
- 15 (b) The membership of any person in the Retirement System shall cease upon:
- 16 (1) The withdrawal of his accumulated contributions after he is no longer a  
17 judge, district attorney, public defender, the Director of Indigent Defense  
18 Services, ~~or~~ clerk of superior court, clerk of the Supreme Court, or clerk of  
19 the Court of Appeals, or
- 20 (2) His retirement under the provisions of the Retirement System, or
- 21 (3) His death."

22 **SECTION 6.** G.S. 135-58(a5) reads as rewritten:

23 "(a6) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c)  
24 on or after July 1, 2008, but before July 1, 2009, after the member has either attained the  
25 member's 65th birthday or has completed 24 years or more of creditable service, shall receive  
26 an annual retirement allowance, payable monthly, which shall commence on the effective date  
27 of the member's retirement and shall be continued on the first day of each month thereafter  
28 during the member's lifetime, the amount of which shall be computed as the sum of the  
29 amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event  
30 shall the annual allowance payable to any member be greater than an amount which, when  
31 added to the allowance, if any, to which the member is entitled under the Teachers' and State  
32 Employees' Retirement System, the Legislative Retirement System, or the Local Governmental  
33 Employees' Retirement System (prior in any case to any reduction for early retirement or for an  
34 optional mode of payment), would total three-fourths of the member's final compensation:

- 35 (1) Four and two hundredths percent (4.02%) of the member's final  
36 compensation, multiplied by the number of years of creditable service  
37 rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- 38 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
39 compensation, multiplied by the number of years of creditable service  
40 rendered as a judge of the superior court or as Administrative Officer of the  
41 Courts;
- 42 (3) Three and two hundredths percent (3.02%) of the member's final  
43 compensation, multiplied by the number of years of creditable service  
44 rendered as a judge of the district court, district attorney, clerk of superior  
45 court, public defender, or the Director of Indigent Defense Services;
- 46 (4) A service retirement allowance computed in accordance with the service  
47 retirement provisions of Article 3 of Chapter 128 of the General Statutes  
48 using an average final compensation as defined in G.S. 135-53(2a) and  
49 creditable service equal to the number of years of the member's creditable  
50 service that was transferred from the Local Governmental Employees'  
51 Retirement System to this System as provided in G.S. 135-56; and

- 1 (5) A service retirement allowance computed in accordance with the service  
2 retirement provisions of Article 1 of this Chapter using an average final  
3 compensation as defined in G.S. 135-53(2a) and creditable service, including  
4 any sick leave standing to the credit of the member, equal to the number of  
5 years of the member's creditable service that was transferred from the  
6 Teachers' and State Employees' Retirement System or the Legislative  
7 Retirement System to this System as provided in G.S. 135-56."

8 **SECTION 7.** G.S. 135-58 is amended by adding a new subsection to read:

9 "(a7) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c)  
10 on or after July 1, 2009, after the member has either attained the member's 65<sup>th</sup> birthday or has  
11 completed 24 years or more of creditable service, shall receive an annual retirement allowance,  
12 payable monthly, which shall commence on the effective date of the member's retirement and  
13 shall be continued on the first day of each month thereafter during the member's lifetime, the  
14 amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4),  
15 and (5) of this subsection, provided that in no event shall the annual allowance payable to any  
16 member be greater than an amount which, when added to the allowance, if any, to which the  
17 member is entitled under the Teachers' and State Employees' Retirement System, the  
18 Legislative Retirement System, or the Local Governmental Employees' Retirement System  
19 (prior in any case to any reduction for early retirement or for an optional mode of payment),  
20 would total three-fourths of the member's final compensation:

- 21 (1) Four and two hundredths percent (4.02%) of the member's final  
22 compensation, multiplied by the number of years of creditable service  
23 rendered as a justice of the Supreme Court or judge of the Court of Appeals;  
24 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
25 compensation, multiplied by the number of years of creditable service  
26 rendered as a judge of the superior court or as Administrative Officer of the  
27 Courts;  
28 (3) Three and two hundredths percent (3.02%) of the member's final  
29 compensation, multiplied by the number of years of creditable service  
30 rendered as a judge of the district court, district attorney, clerk of superior  
31 court, public defender, the Director of Indigent Defense Services, clerk of  
32 the Supreme Court or clerk of the Court of Appeals;  
33 (4) A service retirement allowance computed in accordance with the service  
34 retirement provisions of Article 3 of Chapter 128 of the General Statutes  
35 using an average final compensation as defined in G.S. 135-53(2a) and  
36 creditable service equal to the number of years of the member's creditable  
37 service that was transferred from the Local Governmental Employees'  
38 Retirement System to this System as provided in G.S. 135-56; and  
39 (5) A service retirement allowance computed in accordance with the service  
40 retirement provisions of Article 1 of this Chapter using an average final  
41 compensation as defined in G.S. 135-53(2a) and creditable service, including  
42 any sick leave standing to the credit of the member, equal to the number of  
43 years of the member's creditable service that was transferred from the  
44 Teachers' and State Employees' Retirement System or the Legislative  
45 Retirement System to this System as provided in G.S. 135-56."

46 **SECTION 8.** This act becomes effective July 1, 2009.