

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE DRS55672-LL-350 (5/16)**

Short Title: Appellate Clerks/Judicial Retirement System. (Public)

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Sponsors: Senator Clodfelter.

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Referred to:

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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, ~~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-date~~; and for all clerks of the Supreme Court and clerks of the Court of Appeals who are serving on July 1, 2008, 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.

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

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

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

10 **"§ 135-53. Definitions.**

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

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

- 1 (6a) "District attorney" shall mean the district attorney or solicitor provided  
2 for in G.S. 7A-60.
- 3 (7) "Filing" when used in reference to an application for retirement shall  
4 mean the receipt of an acceptable application on a form provided by  
5 the Retirement System.
- 6 (8) "Final compensation" shall mean for any member the annual  
7 equivalent of the rate of compensation most recently applicable to him.
- 8 (9) "Judge" shall mean any justice or judge of the General Court of Justice  
9 and the administrative officer of the courts.
- 10 (10) "Medical board" shall mean the board of physicians provided for in  
11 G.S. 135-6.
- 12 (11) "Member" shall mean any person included in the membership of the  
13 Retirement System as provided in this Article.
- 14 (12) "Membership service" shall mean service as a judge, district attorney,  
15 clerk of superior court, ~~or public defender~~ defender, clerk of the  
16 Supreme Court, or clerk of the Court of Appeals rendered while a  
17 member of the Retirement System.
- 18 (13) "Previous system" shall mean, with respect to any member, the  
19 retirement benefit provisions of Article 6 and Article 8 of Chapter 7A  
20 of the General Statutes, to the extent that such Article or Articles were  
21 formerly applicable to the member, and in the case of judges of the  
22 district court division, district attorney, public defender, and clerk of  
23 superior court of the General Court of Justice, the Teachers' and State  
24 Employees' Retirement System.
- 25 (14) "Prior service" shall mean service rendered by a member, prior to his  
26 membership in the Retirement System, for which credit is allowable  
27 under G.S. 135-56.
- 28 (14a) "Public defender" means a public defender provided for in  
29 G.S. 7A-498.7, the appellate defender provided for in G.S. 7A-498.8,  
30 the capital defender, and the juvenile defender.
- 31 (15) "Regular interest" shall mean interest compounded annually at such a  
32 rate as shall be determined by the Board of Trustees in accordance  
33 with G.S. 135-7(b).
- 34 (16) "Retirement" shall mean the withdrawal from active service with a  
35 retirement allowance granted under the provisions of this Chapter. In  
36 order for a member's retirement to become effective in any month, the  
37 member must render no service at any time during that month.
- 38 (17) "Retirement allowance" shall mean the periodic payments to which a  
39 beneficiary becomes entitled under the provisions of this Article.
- 40 (18) "Retirement System" shall mean the "Consolidated Judicial Retirement  
41 System" of North Carolina, as established in this Article.
- 42 (19) "Year" as used in this Article shall mean the regular fiscal year  
43 beginning July 1 and ending June 30 in the following calendar year,  
44 unless otherwise defined by regulation of the Board of Trustees."

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

2   "**§ 135-54. Name and date of establishment.**

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

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

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

13   "**§ 135-55. Membership.**

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

- 15           (1)   All judges and district attorneys in office on January 1, 1974;  
16           (2)   All persons who become judges and district attorneys or reenter  
17           service as judges and district attorneys after January 1, 1974;  
18           (3)   All clerks of superior court in office on January 1, 1975;  
19           (4)   All persons who become clerks of superior court or reenter service as  
20           clerks of superior court after January 1, 1975;  
21           (5)   All public defenders in office on July 1, 2007; ~~and~~  
22           (6)   All persons who become public defenders or reenter service as public  
23           defenders after ~~July 1, 2007.~~ July 1, 2007;  
24           (7)   All clerks of the Supreme Court and clerks of the Court of Appeals in  
25           office on July 1, 2008; and  
26           (8)   All persons who become clerks of the Supreme Court and clerks of the  
27           Court of Appeals or reenter service as clerks of the Supreme Court and  
28           clerks of the Court of Appeals after July 1, 2008.

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

- 30           (1)   The withdrawal of his accumulated contributions after he is no longer  
31           a judge, district attorney, public defender, ~~or~~ clerk of superior court,  
32           clerk of the Supreme Court, or clerk of the Court of Appeals, or  
33           (2)   His retirement under the provisions of the Retirement System, or  
34           (3)   His death."

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

36       "(a5) Any member who retires under the provisions of G.S. 135-57(a) or  
37   G.S. 135-57(c) on or after July 1, 2007, but before July 1, 2008, after the member has  
38   either attained the member's 65th birthday or has completed 24 years or more of  
39   creditable service, shall receive an annual retirement allowance, payable monthly,  
40   which shall commence on the effective date of the member's retirement and shall be  
41   continued on the first day of each month thereafter during the member's lifetime, the  
42   amount of which shall be computed as the sum of the amounts in subdivisions (1), (2),  
43   (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance  
44   payable to any member be greater than an amount which, when added to the allowance,

1 if any, to which the member is entitled under the Teachers' and State Employees'  
2 Retirement System, the Legislative Retirement System, or the Local Governmental  
3 Employees' Retirement System (prior in any case to any reduction for early retirement  
4 or for an optional mode of payment), would total three-fourths of the member's final  
5 compensation:

- 6 (1) Four and two hundredths percent (4.02%) of the member's final  
7 compensation, multiplied by the number of years of creditable service  
8 rendered as a justice of the Supreme Court or judge of the Court of  
9 Appeals;
- 10 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
11 compensation, multiplied by the number of years of creditable service  
12 rendered as a judge of the superior court or as Administrative Officer  
13 of the Courts;
- 14 (3) Three and two hundredths percent (3.02%) of the member's final  
15 compensation, multiplied by the number of years of creditable service  
16 rendered as a judge of the district court, district attorney, clerk of  
17 superior court, or public defender;
- 18 (4) A service retirement allowance computed in accordance with the  
19 service retirement provisions of Article 3 of Chapter 128 of the  
20 General Statutes using an average final compensation as defined in  
21 G.S. 135-53(2a) and creditable service equal to the number of years of  
22 the member's creditable service that was transferred from the Local  
23 Governmental Employees' Retirement System to this System as  
24 provided in G.S. 135-56; and
- 25 (5) A service retirement allowance computed in accordance with the  
26 service retirement provisions of Article 1 of this Chapter using an  
27 average final compensation as defined in G.S. 135-53(2a) and  
28 creditable service, including any sick leave standing to the credit of the  
29 member, equal to the number of years of the member's creditable  
30 service that was transferred from the Teachers' and State Employees'  
31 Retirement System or the Legislative Retirement System to this  
32 System as provided in G.S. 135-56."

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

34 "(a6) Any member who retires under the provisions of G.S. 135-57(a) or  
35 G.S. 135-57(c) on or after July 1, 2008, after the member has either attained the  
36 member's 65th birthday or has completed 24 years or more of creditable service, shall  
37 receive an annual retirement allowance, payable monthly, which shall commence on the  
38 effective date of the member's retirement and shall be continued on the first day of each  
39 month thereafter during the member's lifetime, the amount of which shall be computed  
40 as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection,  
41 provided that in no event shall the annual allowance payable to any member be greater  
42 than an amount which, when added to the allowance, if any, to which the member is  
43 entitled under the Teachers' and State Employees' Retirement System, the Legislative  
44 Retirement System, or the Local Governmental Employees' Retirement System (prior in

1 any case to any reduction for early retirement or for an optional mode of payment),  
2 would total three-fourths of the member's final compensation:

- 3 (1) Four and two hundredths percent (4.02%) of the member's final  
4 compensation, multiplied by the number of years of creditable service  
5 rendered as a justice of the Supreme Court or judge of the Court of  
6 Appeals;
- 7 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
8 compensation, multiplied by the number of years of creditable service  
9 rendered as a judge of the superior court or as Administrative Officer  
10 of the Courts;
- 11 (3) Three and two hundredths percent (3.02%) of the member's final  
12 compensation, multiplied by the number of years of creditable service  
13 rendered as a judge of the district court, district attorney, clerk of  
14 superior court, public defender, clerk of the Supreme Court, or the  
15 Court of Appeals;
- 16 (4) A service retirement allowance computed in accordance with the  
17 service retirement provisions of Article 3 of Chapter 128 of the  
18 General Statutes using an average final compensation as defined in  
19 G.S. 135-53(2a) and creditable service equal to the number of years of  
20 the member's creditable service that was transferred from the Local  
21 Governmental Employees' Retirement System to this System as  
22 provided in G.S. 135-56; and
- 23 (5) A service retirement allowance computed in accordance with the  
24 service retirement provisions of Article 1 of this Chapter using an  
25 average final compensation as defined in G.S. 135-53(2a) and  
26 creditable service, including any sick leave standing to the credit of the  
27 member, equal to the number of years of the member's creditable  
28 service that was transferred from the Teachers' and State Employees'  
29 Retirement System or the Legislative Retirement System to this  
30 System as provided in G.S. 135-56."

31 **SECTION 8.** G.S. 135-56 is amended by adding a new subsection to read:

32 "(i) On and after July 1, 2008, the creditable service of a member who was a clerk  
33 of the Supreme Court or clerk of the Court of Appeals and a member of the Teachers'  
34 and State Employees' Retirement System at the time of transfer of membership from the  
35 previous system to this System shall include service as clerk of the Supreme Court or  
36 clerk of the Court of Appeals that was creditable in the previous system immediately  
37 prior to July 1, 2008. The accumulated contributions, creditable service, and reserves, if  
38 any, of a member as clerk of the Supreme Court or clerk of the Court of Appeals shall  
39 be transferred from the previous system to this System in the same manner as prescribed  
40 under G.S. 135-28.1 as it pertained to judges of the district court division of the General  
41 Court of Justice."

42 **SECTION 9.** This act becomes effective July 1, 2008.