

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

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**SENATE BILL 2129**

Short Title: OIDS Director/Judicial Retirement System. (Public)

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Sponsors: Senators Rand and Kinnaird.

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Referred to: Pensions, Retirement & Aging.

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May 29, 2008

A BILL TO BE ENTITLED

1 AN ACT TO INCLUDE THE DIRECTOR OF THE OFFICE OF INDIGENT  
2 DEFENSE SERVICES AS A MEMBER OF THE CONSOLIDATED JUDICIAL  
3 RETIREMENT SYSTEM.  
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 135-50(b) reads as rewritten:

7 "(b) The purpose of this Article is to improve the administration of justice by  
8 attracting and retaining the most highly qualified talent available within the State to the  
9 positions of justice and judge, district attorney and solicitor, public defender, the  
10 Director of Indigent Defense Services, and clerk of superior court, within the General  
11 Court of Justice."

12 **SECTION 2.** G.S. 135-51 reads as rewritten:

13 "**§ 135-51. Scope.**

14 (a) This Article provides consolidated retirement benefits for all justices and  
15 judges, district attorneys, and solicitors who are serving on January 1, 1974, and who  
16 become such thereafter; and for all clerks of superior court who are so serving on  
17 January 1, 1975, and who become such after that date; and for all public defenders who  
18 are serving on July 1, 2007, and who become public defenders after that ~~date~~.date; and  
19 for the Director of Indigent Defense Services who is serving on July 1, 2008, and those  
20 who become Director of Indigent Defense Services after that date.

21 (b) For justices and judges of the appellate and superior court divisions of the  
22 General Court of Justice who so served prior to January 1, 1974, the provisions of this  
23 Article supplement and, under certain circumstances, replace the provisions of Articles  
24 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

25 For district attorneys and judges of the district court of the General Court of Justice  
26 who so served prior to January 1, 1974, the provisions of this Article supplement and,  
27 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 the Director of Indigent  
7 Defense Services on or after July 1, 2008, shall be determined solely in accordance with  
8 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 (5) "Compensation" shall mean all salaries and wages derived from public  
34 funds which are earned by a member of the Retirement System for his  
35 service as a justice or judge, or district attorney, or clerk of superior  
36 court, or public ~~defender~~.defender, or the Director of Indigent Defense  
37 Services.
- 38 (6) "Creditable service" shall mean for any member the total of his prior  
39 service plus his membership service.
- 40 (6a) "District attorney" shall mean the district attorney or solicitor provided  
41 for in G.S. 7A-60.
- 42 (6b) "Director of Indigent Defense Services" shall mean the Director of  
43 Indigent Defense Services as provided for in G.S. 7A-498.6.

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

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

1    **"§ 135-54. Name and date of establishment.**

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

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

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

12    **"§ 135-55. Membership.**

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

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

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

- 28           (1)   The withdrawal of his accumulated contributions after he is no longer  
29                a judge, district attorney, public defender, the Director of Indigent  
30                Defense Services, or clerk of superior court, or  
31           (2)   His retirement under the provisions of the Retirement System, or  
32           (3)   His death."

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

34       "(a5) 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, 2007, but before July 1, 2008, after the member has  
36 either attained the member's 65th birthday or has completed 24 years or more of  
37 creditable service, shall receive an annual retirement allowance, payable monthly,  
38 which shall commence on the effective date of the member's retirement and shall be  
39 continued on the first day of each month thereafter during the member's lifetime, the  
40 amount of which shall be computed as the sum of the amounts in subdivisions (1), (2),  
41 (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance  
42 payable to any member be greater than an amount which, when added to the allowance,  
43 if any, to which the member is entitled under the Teachers' and State Employees'  
44 Retirement System, the Legislative Retirement System, or the Local Governmental

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

- 4 (1) Four and two hundredths percent (4.02%) of the member's final  
5 compensation, multiplied by the number of years of creditable service  
6 rendered as a justice of the Supreme Court or judge of the Court of  
7 Appeals;
- 8 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
9 compensation, multiplied by the number of years of creditable service  
10 rendered as a judge of the superior court or as Administrative Officer  
11 of the Courts;
- 12 (3) Three and two hundredths percent (3.02%) of the member's final  
13 compensation, multiplied by the number of years of creditable service  
14 rendered as a judge of the district court, district attorney, clerk of  
15 superior court, or public defender;
- 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 7.** G.S. 135-58 is amended by adding a new subsection to read:

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

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

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

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

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