



HOUSE BILL 136: Recall Retired Business Court Judge.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2016-2017 General Assembly

Committee:	Senate Judiciary I	Date:	June 27, 2016
Introduced by:	Rep. Stevens	Prepared by:	Bill Patterson Staff Attorney
Analysis of:	PCS to Second Edition H136-CSTG-73		

SUMMARY: *The Proposed Committee Substitute for House Bill 136 would provide permit an emergency judge who retired from office as a special superior court judge assigned to serve as a business court judge, and who at the time of retirement was nominated for a successive term of office that could not be completed prior to reaching mandatory retirement age, to be recalled by the Chief Justice to hear and decide complex business cases. The PCS would also permit an emergency judge whose commission expired upon reaching mandatory retirement age to be recalled to serve in the same capacity. In either case, the judge's eligibility to serve would end five years after being commissioned as an emergency judge, and the judge would receive \$500 per day of active service rendered upon recall, in addition to the judge's expenses. The PCS rewrote the bill in its entirety.*

CURRENT LAW:

The Chief Justice is authorized pursuant to G.S. 7A-45.3 to designate one or more special superior court judges to hear and decide complex business cases as business court judges, and can designate one of these judges as the Senior Business Court Judge.

Pursuant to G.S. 7A-52(a), superior court judges who retire before reaching the mandatory retirement age of 72 are eligible to be commissioned by the Governor to serve as an emergency judge of the court from which they retired, and once commissioned, can be recalled by the Chief Justice of the Supreme Court to hold regular or special sessions of the court from which they retired. In addition to the retirement allowance to which the judge is otherwise entitled, an emergency judge is entitled to actual expenses, plus \$400 per day of active service rendered upon recall pursuant to G.S. 7A-52(b). The compensation received by an emergency judge does not affect the judge's retirement allowance.

An emergency superior court judge whose commission expires upon reaching mandatory retirement age is eligible to be recalled by the Chief Justice to preside over regular or special sessions of the court from which they retired pursuant to G.S. 7A-57.

BILL ANALYSIS: **Section 1** of the PCS would amend G.S. 7A-45.3 to change the designation of "senior business court judge" to "chief business court judge," and would permit the Chief Justice to designate as the chief business court judge an emergency judge who has been designated to hear complex business court cases or who has been recalled after having done so before reaching mandatory retirement age.

Section 2 would make a conforming change to G.S. 7A-45.4(c) by replacing its reference to "senior business court judge" to "chief business court judge."

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 136

Page 2

Section 3 would amend G.S. 7A-52 to add a new subsection (a1), which would permit an emergency judge of the superior court to be recalled to active service by the Chief Justice and assigned to hear complex business cases, if, at the time of the judge's retirement:

- The judge is a special superior court judge who is retiring from a term to which the judge was duly appointed and for which the judge was assigned by the Chief Justice to hear complex business court cases.
- The judge's nomination to serve a successive term in the same office is pending before the General Assembly or was not acted upon before adjournment sine die.
- If confirmed and appointed to the term of office for which nominated, the judge would reach mandatory retirement age before completing that term of office.

The judge would be designated as "senior business court judge" and could serve in that capacity for up to five years from the first date of recall, or until the commission expires, whichever occurs first.

Section 3 would also amend G.S. 7A-52(b) to provide that a judge recalled to serve as a senior business court judge would be entitled to \$500 per day in addition to the judge's expenses for each day of active service rendered upon recall. There could be no overlap between days of service rendered as a special business court judge and days of service rendered as a regular superior court judge.

Section 4 would amend G.S. 7A-57 to permit a recalled emergency judge who served as a senior business court judge and whose commission expired upon reaching mandatory retirement age to be recalled by the Chief Justice and assigned to hear and decide complex business cases for up to five years from the issuance date of the judge's commission to serve as an emergency judge.

Section 5 would make a conforming change to G.S. 135-71(c) to provide that a judge's retirement allowance is not affected by compensation received as a senior business court judge.

EFFECTIVE DATE: The act would be effective when it becomes law. Section 3 would apply to judges who retire on or after that date, and Section 4 would apply to judges who reach mandatory retirement age after that date.