



HOUSE BILL 136: Recall Retired Business Court Judge.

2016-2017 General Assembly

Committee:		Date:	June 28, 2016
Introduced by:	Rep. Stevens	Prepared by:	Bill Patterson
Analysis of:	Third Edition		Staff Attorney

SUMMARY: *House Bill 136 would permit a superior court judge who has retired before reaching mandatory retirement age and who has been commissioned to serve as an emergency judge to be recalled by the Chief Justice and assigned to hear and decide complex business cases as a senior business court judge if:*

- *The judge retired from office as a special superior court judge assigned to hear and decide complex business cases, and*
- *At the time of retiring, the judge had been nominated for a successive term of office that could not be completed prior to the judge reaching mandatory retirement age, and the nomination had not been acted upon by the General Assembly*

The bill would also permit a retired superior court judge who formerly served as an emergency judge hearing and deciding complex business cases and whose commission has expired upon reaching mandatory retirement age to be recalled by the Chief Justice to hear and decide complex business cases as a senior business court judge.

In either event, the judge's eligibility to serve would end five years after being commissioned as an emergency judge, the judge would receive \$500 in compensation for each day of active service rendered upon recall, plus expenses and the judge could be designated by the Chief Justice as the chief business court judge.

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.

An emergency judge is entitled to receive compensation in the amount of \$400 per day of active service rendered upon recall pursuant to G.S. 7A-52(b), plus expenses. The compensation received by an emergency judge does not affect the judge's retirement allowance.

An emergency judge's commission expires upon reaching mandatory retirement age. At that time, the judge becomes eligible to be recalled by the Chief Justice to preside over regular or special sessions of the court from which the judge retired pursuant to G.S. 7A-57.

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House Bill 136

Page 2

BILL ANALYSIS: **Section 1** of House Bill 136 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 a currently commissioned emergency judge assigned to hear complex business court cases, or a judge who formerly heard such cases as an emergency judge but whose commission has expired upon 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."

Section 3 would add a new subsection (a1) to G.S. 7A-52 to 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, all of the following conditions are met:

- 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 assigned pursuant to this new subsection would be designated as a "senior business court judge" and could serve in that capacity for up to five years from the issuance date of the judge's commission to serve as an emergency judge, or until that commission expires upon the judge reaching mandatory retirement age, 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 senior 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.