



HOUSE BILL 136: Recall Retired Business Court Judge.

2015-2016 General Assembly

Committee:		Date:	July 25, 2016
Introduced by:		Prepared by:	Bill Patterson Staff Attorney
Analysis of:	S.L. 2016-91		

OVERVIEW: *S.L. 2016-91 provides that a special superior court judge who retires from service as a business court judge before reaching mandatory retirement age, and who is commissioned by the Governor to serve as an emergency judge, can be recalled by the Chief Justice and assigned to serve as a senior business court judge if, at the time of retirement, the judge had been nominated for a successive term of office, the nomination had not yet been confirmed by the General Assembly, and the judge would have reached mandatory retirement age before completing the successive term of office.*

The act also provides that an emergency superior court judge who is recalled to serve as a senior business court judge as described above, and whose commission expires upon reaching mandatory retirement age, can be recalled again by the Chief Justice to continue to serve as a senior business court judge.

With regard to any judge so recalled, the act provides that:

- The judge's eligibility to serve as a recalled senior business court judge terminates five years after being commissioned as an emergency judge.*
- The judge is paid actual expenses plus \$500 per day of active service rendered as a senior business court judge, in addition to the compensation or retirement allowance to which the judge is otherwise entitled by law.*
- The judge can be designated as the chief business court judge by the Chief Justice.*

This act became effective July 11, 2016, and applies to judges retiring on or after that date, or whose commission to serve as an emergency judge expires upon reaching mandatory retirement age on or after that date.

CURRENT LAW:

The Chief Justice is authorized 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 judge upon whom parties must serve any notice designating an action as a mandatory complex business case. Under the law prior to enactment of this act, the judge who was designated to receive these notices was referred to as the Senior Business Court Judge.

Superior court judges who retire before reaching the mandatory retirement age 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.

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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.

Under the law prior to enactment of this act, emergency judges were entitled to receive compensation in the amount of \$400 per day of active service rendered upon recall, plus expenses.

ANALYSIS: **Section 1** of the act changes the title of the business court judge designated to receive notices of actions designated as mandatory complex business cases from "Senior Business Court Judge" to "Chief Business Court Judge," and permits the Chief Justice to designate as Chief Business Court judge either a judge presently serving as a senior business court judge or a judge who so served under commission as an emergency judge and whose commission expired upon reaching mandatory retirement age.

Section 2 changes a statutory reference to "Senior Business Court Judge" to "Chief Business Court Judge" to conform to the change made by Section 1 of the act.

Section 3 permits 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 is designated as a "senior business court judge" and is permitted to serve in that capacity for five years from the date the judge was commissioned to serve as an emergency judge, or until the commission expires upon the judge reaching mandatory retirement age, whichever occurs first.

Section 3 also provides that a judge recalled to serve as a senior business court judge is entitled to \$500 per day in addition to the judge's expenses for each day of active service rendered upon recall.

Section 4 permits an 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 provides that a judge's retirement allowance is not affected by compensation received as a senior business court judge.

EFFECTIVE DATE: The act became effective on July 11, 2016. Section 3 of the act applies to judges who retire on or after that date, and Section 4 applies to judges who reach mandatory retirement age on or after that date.