



HOUSE BILL 205: Increase Retirement Age/Judges & Magistrates

2015-2016 General Assembly

Committee:	House Judiciary IV	Date:	March 18, 2015
Introduced by:	Reps. Schaffer, Daughtry	Prepared by:	Kelly Tornow
Analysis of:	PCS to First Edition H205-CSTH-4		Committee Counsel

SUMMARY: *The PCS for House Bill 205 increases the mandatory retirement age for justices, judges, and magistrates from 72 to 75 and allows them to serve until the end of the calendar year in which they reach the age of 75.*

Under G.S. 120-111.3, the PCS requires a serial referral to House Pensions because Section 3 of the bill makes changes to a State retirement system.

CURRENT LAW:

Justices and Judges:

Section 8 of Article IV of the State Constitution authorizes the General Assembly to provide by general law for the retirement of Justices and Judges of the General Court of Justice, including the maximum age limits for service as a justice or judge.

G.S. 7A-4.20 provides that a justice or judge cannot continue in office beyond the last day of the month in which he or she turns 72. There are provisions that allow retired justices and judges to be recalled for periods of temporary service, but this bill does not affect those provisions.

Article 4 of Chapter 135 of the General Statutes establishes the Consolidated Judicial Retirement Act, which provides retirement benefits for all justices and judges. G.S. 135-57(b) provides that justices and judges are automatically retired as of the first day of the calendar month following attainment of their 72nd birthday.

Magistrates:

G.S. 7A-107(b) provides that a magistrate cannot continue in office beyond the last day of the month in which the magistrate reaches the mandatory retirement age for justices and judges of the General Court of Justice, which is currently set at 72. Session Law 2013-277 established the mandatory retirement age for magistrates.

Magistrates are part of the Retirement System for Teachers and State Employees, established by Article 1 of Chapter 135 of the General Statutes.

BILL ANALYSIS: The PCS for House Bill 205 does the following:

- Increases the mandatory retirement age for justices, judges, and magistrates from 72 to 75.
- Allows justices, judges, and magistrates to serve until the end of the calendar year in which they turn 75, rather than at the end of the calendar month.



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- Makes conforming changes to the Consolidated Judicial Retirement Act, which provides retirement benefits for justices and judges.

EFFECTIVE DATE: This act is effective December 1, 2015, and applies to justices, judges, and magistrates holding office or elected or appointed on or after that date.

BACKGROUND:

Mandatory Retirement Age for Judges in Other States:

Some states prescribe a mandatory retirement age, while others provide for an age range as a qualification for holding a judgeship.

22 states (Alabama, Alaska, Arizona, Connecticut, Florida, Hawaii, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Dakota, Vermont, Virginia, and Wyoming) provide for a mandatory retirement age of 70.

North Carolina and three other states (Colorado, Iowa, and South Carolina) require mandatory retirement at age 72.

The mandatory retirement age for judges in Oregon, Texas, Utah, and Washington is 75.

19 states (Arkansas, California, Delaware, Georgia, Idaho, Illinois, Kentucky, Maine, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Rhode Island, Tennessee, West Virginia, and Wisconsin) do not have a mandatory retirement age for judges.