

House Bill 400

By: Representatives Smith of the 18th, Efstration of the 104th, Gunter of the 8th, Holcomb of the 81st, Leverett of the 123rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 6 of Article 8 of Chapter 2 of Title 47 of the Official Code of Georgia
2 Annotated, relating to judges of the Supreme Court, judges of the Court of Appeals, and their
3 employees, so as to decrease the age of eligibility for retirement benefits for appellate court
4 judges; to provide for related matters; to provide conditions for an effective date and
5 automatic repeal; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 6 of Article 8 of Chapter 2 of Title 47 of the Official Code of Georgia Annotated,
9 relating to judges of the Supreme Court, judges of the Court of Appeals, and their employees,
10 is amended by revising Code Section 47-2-244, relating to optional benefits available to
11 appellate court judges, notice of election of benefits, eligibility for benefits, disability
12 benefits, and survivors benefits, as follows:

13 "47-2-244.

14 (a) The term 'appellate court judge,' as used in this Code section, shall mean any Judge,
15 Presiding Judge, or Chief Judge of the Court of Appeals and any Associate Justice,
16 Presiding Justice, or Chief Justice of the Supreme Court.

17 (b) Any other provision of law to the contrary notwithstanding, any appellate court judge
18 shall be entitled to receive the benefits under this Code section in lieu of any retirement
19 allowances otherwise available under this retirement system and in lieu of the appointment
20 to or the holding of any emeritus office.

21 (c) Any appellate court judge who seeks benefits under this Code section shall tender to
22 the board of trustees before January 1, 1972, or within 60 days after the commencement
23 of such judge's term of office, whichever shall occur later, a written notice stating that the
24 judge has elected to accept such benefits in lieu of any retirement allowances otherwise
25 available under this retirement system and in lieu of the appointment to and the holding of
26 any emeritus office. The notice shall state that in consideration of the payment of benefits
27 under this Code section, such appellate court judge shall resign from office as an appellate
28 court judge on or before the day upon which he or she attains 75 years of age or on the last
29 day of the term in which such appellate court judge is serving when he or she attains age
30 70, whichever is later. Any notice filed prior to July 1, 1986, by an appellate court judge
31 in active service on such date which contained an agreement to resign on or before such
32 judge's seventieth birthday shall be void and of no force and effect if such judge files a new
33 notice containing an agreement to resign as provided in this subsection and such notice is
34 filed on or before September 1, 1986.

35 (d) As a condition of eligibility for benefits under this Code section, there shall have been
36 deducted from the earnable compensation of an appellate court judge and remitted to the
37 board of trustees a contribution equivalent to 7 1/2 percent of such judge's earnable
38 compensation for each pay period or part thereof after the date of such judge's written
39 notice of election of benefits. Election of benefits under this Code section constitutes an
40 authorization and direction by that appellate court judge to the clerical personnel of such
41 judge's court to withhold such judge's contributions and remit them to the board of trustees
42 in the manner provided by the board of trustees, together with a sum of money available

43 to the court from annual or supplemental appropriations in an amount sufficient to carry
44 out this Code section.

45 (e) Upon compliance with this Code section, an appellate court judge may retire and
46 receive benefits under this Code section.

47 (f) After ten years of service as an appellate court judge, such judge shall be entitled to
48 receive during life a retirement benefit payable monthly equivalent to 75 percent of the
49 salary of an appellate court judge then serving in the office from which such judge retired.

50 (g) An appellate court judge who is incapacitated prior to the completion of ten years of
51 service as an appellate court judge shall receive during life for each full year of service
52 one-tenth of the benefit such judge would have received had such judge completed ten
53 years of service as an appellate court judge. For the purposes of this subsection, the term
54 'incapacitated' or 'incapacity' means physical or mental disability for further performance
55 of duties and shall not mean the attainment of any certain age.

56 (h) The surviving spouse of an appellate court judge, provided such surviving spouse is
57 the designated beneficiary, shall be entitled to receive a benefit payable monthly for life
58 equivalent to 50 percent of the benefits to which the spouse would have been entitled based
59 upon his or her years of service as an appellate court judge and without regard to whether
60 such judge had attained age ~~65~~ 60. However, if the designated beneficiary, or
61 beneficiaries, is someone other than the surviving spouse of the deceased judge, then such
62 named beneficiary or beneficiaries shall be entitled to receive a benefit payable monthly
63 for life based on an actuarial equivalent, provided the actuarial equivalent shall not be in
64 excess of 50 percent of the amount that would have been payable to the judge. For the
65 purpose of this provision, in the event the beneficiary, or beneficiaries, is not the member's
66 spouse, the actuarial equivalent shall be computed based upon the assumption that the
67 member had a spouse who was the same age as the member.

68 (i) Survivors benefits shall be available to appellate court judges at prevailing contribution
69 rates and subject to provisions of law and regulations of the board of trustees; provided,

70 however, that no person who becomes or again becomes subject to the provisions of this
71 Code section on or after July 1, 2009, shall be entitled to such survivors benefits.

72 (j) If any appellate court judge dies without having received benefits under this Code
73 section and is not survived by a designated beneficiary who is eligible to receive the
74 benefits provided by this Code section, such judge's contributions shall be paid to his or her
75 estate without interest. If any appellate court judge and such judge's designated beneficiary
76 or beneficiaries die as the result of a common accident prior to the time at which the
77 payment of benefits to the judge equals the total contributions made by such judge plus
78 interest thereon, the difference shall be paid to the estate of the judge. If after retirement
79 an appellate court judge and such judge's designated beneficiary or beneficiaries die, but
80 not as the result of a common accident, prior to the time at which the total benefits paid to
81 the judge and such judge's beneficiary or beneficiaries equal the total contributions made
82 by such judge plus interest thereon, the difference shall be paid to the estate of the last
83 decedent.

84 (k) An appellate court judge who has accrued creditable service under this retirement
85 system may convert such service in order to fulfill the conditions of this Code section on
86 the basis of two years of creditable service being equivalent to one year of service credit
87 under this Code section, provided that creditable service based upon the holding of office
88 as an appellate court judge shall be convertible to service credit under this Code section on
89 an equal time basis. Applications for conversion of service credits under this Code section
90 shall be made in writing to the board of trustees.

91 (l) Any appellate court judge who elects to receive the benefits provided for by this Code
92 section and who fails to resign his office as appellate court judge on or before the day such
93 judge attains age 75 or on the last day of the term in which such appellate court judge is
94 serving when he or she attains age 70, whichever is later, or on or before June 30, 1972, in
95 the event he or she attained age 70 on or prior to June 30, 1972, shall not be entitled to

96 receive any benefits under this Code section and shall forfeit all contributions made under
97 it.

98 (m) No benefit shall be payable to an appellate court judge under this Code section until
99 such judge reaches ~~65~~ 60 years of age, except for incapacity."

100 **SECTION 2.**

101 This Act shall become effective on July 1, 2024, only if it is determined to have been
102 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
103 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
104 become effective and shall be automatically repealed in its entirety on July 1, 2024, as
105 required by subsection (a) of Code Section 47-20-50.

106 **SECTION 3.**

107 All laws and parts of laws in conflict with this Act are repealed.