

## CHAPTER 305

(HB 439)

AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

*(1) As a pilot project to determine the effectiveness of using senior retired judges to combat backlog and delay in Kentucky courts, there is hereby created a "Senior Status Program for Special Judges." The program shall be implemented as follows:*

*(a) KRS 21.400(1) and any other provision in KRS Chapter 21 to the contrary notwithstanding, a member who retires at a time when combining his total years of judicial service credit and his age equals or exceeds the number seventy-five (75), may elect, within ninety (90) days following retirement, to participate in the "Senior Status Program for Special Judges," if he complies with the provisions of this subsection. In that event, the member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, not to exceed twenty (20) years of judicial service at the five percent (5%) factor, not to exceed one hundred percent (100%) of final compensation. "Final compensation" is as defined in KRS 21.400. Any nonjudicial time shall be counted as is otherwise provided in KRS Chapter 21; but in no event shall service retirement allowance exceed one hundred percent (100%) of final compensation.*

*1. In the event the retiring judge elects to retire as a "Senior Status Special Judge" under this subsection, he shall commit to serve, upon appointment by the Chief Justice of the Commonwealth, as special judge for one hundred twenty (120) work days per year for a term of five (5) years without compensation other than the retirement benefits under this subsection. The Senior Status Special Judge may agree to work more than one hundred twenty (120) days in any year within the five (5) years of service; however, the Senior Status Special Judge shall be compensated as otherwise provided by law, in addition to his retirement benefits, for any days served in excess of one hundred twenty (120) in that year. If the Senior Status Special Judge has not served a total of six hundred (600) days within the five (5) year period outlined in this subsection, the Chief Justice shall require the Senior Status Special Judge to serve at no additional compensation to the Senior Status Special Judge, until the six hundred (600) day period is served by the Senior Status Special Judge. The Senior Status Special Judge and the Chief Justice may agree in writing to serve less than the one hundred twenty (120) days in any one or more of the five (5) years; however, any of the days not served in a given year shall be served at the end of the five (5) year period set forth in this subsection.*

*2. Should any member electing to retire under the Senior Status Program for Special Judges fail, when ordered by the Chief Justice to serve the requisite number of days not to exceed one hundred twenty (120) days a year for the five*

*(5) year period outlined in this subsection, unless otherwise agreed in writing, he shall no longer be eligible for benefits computed under this subsection and shall return to the benefits otherwise provided under this chapter.*

3. *Subject to the Section 110(5)(b) of the Kentucky Constitution, the Chief Justice shall give due regard, when practical, to the desirability of appointing Senior Status Special Judges to serve within their judicial region as defined by the regional administration charter.*
- (b) *The inviolable contract provisions of Kentucky law, KRS 21.480, shall apply during the period of time that Section 1 of this Act is effective; however, no other provisions of this Act shall be considered subject to an inviolable contract of the Commonwealth.*
- (c) *Nothing contained in this section shall be construed to invalidate provisions in the current law which require a penalty for retiring before the normal retirement age.*
- (2) *The Senior Status Program for Special Judges created by this section shall be open to any member who is a judge in office on the effective date of this Act and who subsequently retires as a Senior Status Special Judge on or before June 30, 2007.*

Section 2. KRS 21.400 is amended to read as follows:

- (1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962, creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 to 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one-hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a Circuit Judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.

- (2) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed *on the basis of the number of years of his actual service*, and payable in accordance with:
- (a) The provisions of subsection (1) of this section; *or*
  - (b) *Section 1 of this Act if the member retires as a Senior Status Special Judge while the pilot program created in Section 1 of this Act is in effect*~~[, on the basis of the number of years of his actual service].~~
- (3) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each year by which his actual age at the time the election is made is lower than the normal retirement age.
- (4) A member who retires before his normal retirement date when his benefit is based on twenty-seven (27) years or more of service in the Judicial Retirement Plan, or if his judicial service credit, when combined with service he has in, or for which he is receiving benefits from, the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or the Teachers' Retirement System, is equal to twenty-seven (27) years, shall be vested with the right to receive a service retirement allowance computed *on the basis of the number of years of his actual service*, and payable in accordance with:
- (a) The provisions of subsection (1) of this section; *or*
  - (b) *Section 1 of this Act if the member retires as a Senior Status Special Judge while the pilot program created in Section 1 of this Act is in effect*~~[on the basis of the number of years of his actual service].~~
- (5) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election, a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached normal retirement age, reduced at the rate of five percent (5%) for each year by which his years of service or combined service pursuant to subsection (4) of this section are lower than twenty-seven (27).

Section 3. On the effective date of this Act, and annually thereafter the Judicial Retirement System shall provide a written report to the Legislative Research Commission and to the Chief Justice of the Kentucky Supreme Court containing: (1) Number of judges who have retired as Senior Status Special Judges since the effective date of the Act, (2) Compensation and other benefits paid to those Senior Status Special Judges; (3) Number of days each Senior Status Special Judge has served as a special judge; (4) The fiscal impact on the judicial retirement system and the General Fund as a result of the retirement of the Senior Status Special Judges; and (5) Any other relevant information that may be requested.

Section 4. Section 1 of this Act is repealed effective July 1, 2007.

**Approved April 4, 2000**