



SENATE BILL 117: Forfeiture of Retirement Benefits/Judges.

2017-2018 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Appropriations on Pensions, Compensation, and Benefits. If favorable, re-refer to Rules and Operations of the Senate	Date:	February 28, 2017
Introduced by:	Sens. Pate, Tucker	Prepared by:	Bill Patterson Committee Co-Counsel
Analysis of:	First Edition		

OVERVIEW: *Senate Bill 117 would bar a judge who has been removed from office for reasons other than mental or physical disability from receiving retirement compensation.*

[As introduced, this bill was identical to H160, as introduced by Reps. Burr, Lewis, Bumgardner, Bert Jones, which is currently in House Pensions and Retirement.]

CURRENT LAW:

Article IV, Section 17(1) of the North Carolina Constitution permits a judge to be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly, and provides that a judge's removal from office by the General Assembly for any other reason shall be by impeachment.

Pursuant to G.S. 123-5, any justice or judge of the General Court of Justice can be impeached by the General Assembly for commission of any felony, commission of any misdemeanor involving moral turpitude, malfeasance in office, or willful neglect of duty.¹ Upon conviction with concurrence of two-thirds of the Senators present, the judge can be removed from office and/or disqualified from holding any office of honor, trust, or profit under this State.²

Pursuant to G.S. 7A-376(b), upon recommendation of the Judicial Standards Commission, the North Carolina Supreme Court can issue a public reprimand, censure, suspend, or remove any justice or judge of the General Court of Justice, including any retired justice or judge who is recalled for service as an emergency judge in any division of the General Court of Justice, for any of the following reasons:

1. Willful misconduct in office.
2. Willful and persistent failure to perform the judge's duties.
3. Habitual intemperance.
4. Conviction of a crime involving moral turpitude.
5. Conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

¹ G.S. 123-5. The General Assembly has prescribed the procedure for impeachment in Article 2 of Chapter 123 of the General Statutes, as mandated by Article IV, Section 17(2) of the North Carolina Constitution.

² G.S. 123-13.

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A judge who is removed by the Supreme Court under G.S. 7A-376(b) is barred from receiving any retirement compensation and is also disqualified from holding further judicial office.

Pursuant to G.S. 7A-376(c), upon recommendation of the Judicial Standards Commission, the Supreme Court "may suspend, for a period of time the Supreme Court deems necessary, any judge for temporary physical or mental incapacity interfering with the performance of the judge's duties, and may remove any judge for physical or mental incapacity interfering with the performance of the judge's duties which is, or is likely to become, permanent." A judge who is removed for mental or physical incapacity is entitled to receive retirement compensation "if the judge has accumulated the years of creditable service required for incapacity or disability retirement under any provision of State law."

BILL ANALYSIS: Senate Bill 117 would enact new G.S. 135-75.1B to prohibit the Board of Trustees for the Teachers' and State Employees' Retirement System from paying any retirement benefits or allowances, except for a return of member contributions plus interest, to:

- Any judge who is removed from office by impeachment for reasons other than a physical or mental incapacity interfering with the performance of the judge's duties
- Any judge removed from office under G.S. 7A-376(b).

EFFECTIVE DATE: This act is effective when it becomes law.