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120th Session, 2013-2014

**S. 71**

**STATUS INFORMATION**

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Sponsors: Senator Malloy

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Prefiled in the Senate on December 13, 2012

Currently residing in the Senate Committee on **Finance**

Summary: Not yet available

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
12/13/2012	Senate	Prefiled
12/13/2012	Senate	Referred to Committee on <b>Finance</b>

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**VERSIONS OF THIS BILL**

[12/13/2012](#)

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9 **A BILL**

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11 TO AMEND SECTION 9-8-40, CODE OF LAWS OF SOUTH  
12 CAROLINA, 1976, RELATING TO MEMBERSHIP IN THE  
13 RETIREMENT SYSTEM FOR JUDGES, SOLICITORS, AND  
14 PUBLIC DEFENDERS, BY REMOVING THE AGE LIMIT OF  
15 SEVENTY-TWO FOR THOSE ELIGIBLE TO BECOME  
16 MEMBERS OF THE SYSTEM; TO AMEND SECTION 9-8-60,  
17 RELATING TO RETIREMENT AND RETIREMENT  
18 ALLOWANCES, BY REMOVING THE REQUIREMENT THAT  
19 MEMBERS OF THE RETIREMENT SYSTEM FOR JUDGES,  
20 SOLICITORS, AND PUBLIC DEFENDERS MUST RETIRE BY  
21 THE END OF THE CALENDAR YEAR IN WHICH THEY  
22 TURN SEVENTY-TWO; AND TO REPEAL SECTION 22-1-25,  
23 RELATING TO MANDATORY RETIREMENT AGE FOR  
24 MAGISTRATES.

25

26 Be it enacted by the General Assembly of the State of South  
27 Carolina:

28

29 SECTION 1. Section 9-8-40 of the 1976 Code, as last amended  
30 by Act 108 of 2007, is amended to read:

31

32 "Section 9-8-40. (1) All persons who are judges or solicitors on  
33 July 1, 1979, ~~and who have not attained age seventy two~~ shall  
34 become members of the system as of that date. All other persons  
35 become members of the system on taking office as judge, solicitor,  
36 or circuit public defender ~~before attaining age seventy two~~.

37 (2) If a member of the system ceases to be a judge, solicitor, or  
38 circuit public defender for reasons other than death or retirement,  
39 he then ceases to be a member of the system, whether or not he  
40 withdraws his accumulated contributions.”

41

1 SECTION 2. Section 9-8-60 of the 1976 Code, as last amended  
2 by Act 112 of 2007, is amended to read:

3

4 "Section 9-8-60. (1) A member of the system may retire  
5 upon written application to the board setting forth at what time, ~~not~~  
6 ~~later than the end of the calendar year in which the member attains~~  
7 ~~age seventy two and~~ not more than ninety days prior nor more than  
8 six months subsequent to the execution and filing thereof, the  
9 member desires to be retired, if the member at the time so specified  
10 for retirement is no longer in the service of the State, except as a  
11 member of the General Assembly or as allowed pursuant to  
12 subsection (7), and has completed ten years of earned service as a  
13 judge or eight years of earned service as a solicitor or circuit public  
14 defender or was in service as a judge or solicitor on July 1, 1984,  
15 and has either:

16 (a) attained the age of sixty-five and completed at least  
17 twenty years of credited service;

18 (b) attained age seventy and completed at least fifteen years  
19 of credited service; or

20 (c) completed at least twenty-five years of credited service  
21 in the system for a judge, or twenty-four years of credited service  
22 in the system for a solicitor or circuit public defender, regardless of  
23 age. A member may retire under this section if the member was a  
24 member of this system as of June 30, 2004; attained age sixty-five  
25 with at least four years' earned service in the position of judge,  
26 solicitor, or circuit public defender; and, as of June 30, 2004, had  
27 a total of twenty-five years of credited service with the State in the  
28 South Carolina Retirement System, the Police Officers Retirement  
29 System, or the Retirement System for Members of the General  
30 Assembly.

31 A person is not eligible to receive a retirement allowance under  
32 this system while under employment covered by the South  
33 Carolina Retirement System and the South Carolina Police  
34 Officers Retirement System except as provided in Section 9-8-65.

35 A person receiving retirement allowances under this system who  
36 is elected to the General Assembly continues to receive the  
37 retirement allowances while serving in the General Assembly and  
38 must also be a member of the General Assembly Retirement  
39 System unless the person files a statement with the State Budget  
40 and Control Board on a form prescribed by the board electing not  
41 to participate in the General Assembly Retirement System while a  
42 member of the General Assembly. A person making this election  
43 shall not make contributions to the General Assembly Retirement

1 System nor shall the State make contributions on the member's  
2 behalf and the person is not entitled to benefits from the General  
3 Assembly Retirement System after ceasing to be a member of the  
4 General Assembly.

5 (2) A retired member shall receive a monthly retirement  
6 allowance which is equal to one-twelfth of seventy-one and  
7 three-tenths percent of the current active salary of the respective  
8 position.

9 (3) No member shall be permitted to retire and resign on  
10 account of being totally and permanently disabled and to receive  
11 the retirement benefit herein provided for until it is proven to the  
12 satisfaction of the Supreme Court, or a majority of the justices  
13 thereof, that the member is totally and permanently disabled,  
14 physically or mentally, or both, from further rendering useful and  
15 efficient service in the position. Upon the finding of the Supreme  
16 Court that any member is totally and permanently disabled, the  
17 Supreme Court shall notify the director of its findings. A member  
18 shall have a minimum of five years of earned service to qualify for  
19 disability retirement.

20 (4) Any beneficiary receiving a retirement allowance under any  
21 other system of the State providing retirement benefits for judges  
22 or from the Solicitors' Retirement Program established pursuant to  
23 Article 4 of Chapter 7 of Title 1 shall become a beneficiary under  
24 this System as of July 1, 1979, and shall receive a retirement  
25 allowance under this section adjusted in accordance with the  
26 provisions of this section or Section 9-8-90, whichever is  
27 applicable, in lieu of any retirement allowance under such other  
28 system. The full amount of any accumulated contributions or  
29 assets held by that system on behalf of the beneficiary shall be  
30 transferred to this system promptly pursuant to the provisions of  
31 this chapter. Notwithstanding anything herein to the contrary, no  
32 beneficiary under this section shall receive an allowance which is  
33 less than the allowance he would have received under such other  
34 system as of July 1, 1979.

35 (5) A member who retires, who has completed at least  
36 twenty-five years of credited service, or twenty-four years in the  
37 case of a solicitor or circuit public defender, shall receive a  
38 monthly retirement allowance which must be equal to one-twelfth  
39 of seventy-one and three-tenths percent of the current active salary  
40 of the respective position plus one-twelfth of two and sixty-seven  
41 hundredths percent of the current active salary of the respective  
42 position for each additional year of earned service over  
43 twenty-five, or twenty-four in the case of a solicitor or circuit

1 public defender. The monthly retirement allowance may not  
2 exceed one-twelfth of ninety percent of the current active salary of  
3 the respective position.

4 (6) A member retiring after 2003 shall receive an additional  
5 benefit, paid at retirement, equal to the member's employee  
6 contributions, plus interest, paid to the system after the member  
7 attains sufficient creditable service to become eligible to receive  
8 the maximum benefit of ninety percent of the current active salary  
9 of the respective position under this section.

10 (7)(a) A member who has attained the age of sixty years and is  
11 eligible to retire and receive the maximum monthly benefit of  
12 one-twelfth of ninety percent of the current active salary of a  
13 judge, solicitor, or circuit public defender as provided in  
14 subsection (5) may retire and receive a retirement benefit while  
15 continuing to serve as judge, solicitor, or circuit public defender  
16 ~~until the end of the calendar year in which the member attains the~~  
17 ~~age of seventy two years~~. The employee and employer  
18 contributions must continue to be paid as if the judge, solicitor, or  
19 circuit public defender continuing to serve pursuant to this  
20 subsection was an active contributing member, but no additional  
21 service credit accrues on account of these contributions. A judge,  
22 solicitor, or circuit public defender who retires pursuant to this  
23 subsection is not subject to the provisions of Section 9-8-120  
24 unless he has vacated his office.

25 (b) A member who has not yet reached the age of sixty  
26 years, but who is eligible to retire and receive the maximum  
27 monthly benefit of one-twelfth of ninety percent of the current  
28 active salary of a judge, solicitor, or circuit public defender as  
29 provided in subsection (5) may retire and continue to serve as  
30 judge, solicitor, or circuit public defender ~~until the end of the~~  
31 ~~calendar year in which the member attains the age of seventy two~~  
32 ~~years~~. While a member continues to serve as judge, solicitor, or  
33 circuit public defender pursuant to this subsection, the member's  
34 normal monthly retirement benefit will be deferred and placed in  
35 the system's trust fund on behalf of the member. Upon reaching  
36 the age of sixty years, the balance of the member's deferred  
37 retirement benefit will be distributed to the member. No interest  
38 will be paid on the member's deferred monthly retirement benefit  
39 placed in the system's trust fund. The employee and employer  
40 contributions must continue to be paid as if the judge, solicitor, or  
41 circuit public defender continuing to serve pursuant to this  
42 subsection was an active contributing member, but no additional  
43 service credit accrues on account of these contributions. A judge,

1 solicitor, or circuit public defender who retires pursuant to this  
2 subsection is not subject to the provisions of Section 9-8-120  
3 unless he has vacated his office.

4 (c) For a member retiring and continuing to serve as judge,  
5 solicitor, or circuit public defender pursuant to subsection (7)(b)  
6 the additional benefit provided for in subsection (6) will be  
7 deferred and placed in the system's trust fund until the member  
8 reaches the age of sixty years. Upon reaching the age of sixty  
9 years, the additional benefit will be distributed, plus interest, to the  
10 member.

11 (d) For all purposes other than employment, a member  
12 retiring and continuing to serve as judge, solicitor, or circuit public  
13 defender pursuant to either subsection (7)(a) or (7)(b) is a retired  
14 member of the system."

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16 SECTION 3. Section 22-1-25 of the 1976 Code is repealed.

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18 SECTION 4. This act takes effect upon approval by the Governor.

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