

HB 248-FN - AS INTRODUCED

2021 SESSION

21-0254

10/11

HOUSE BILL            ***248-FN***

AN ACT                relative to the judicial retirement plan.

SPONSORS:           Rep. Lynn, Rock. 7

COMMITTEE:          Judiciary

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ANALYSIS

This bill revises the minimum age for retirement and the calculation of retirement benefits for judges under the judicial retirement plan, RSA 100-C. The changes are applicable to new judges who become members of the judicial retirement plan.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                             Matter removed from current law appears ~~[in brackets and struckthrough]~~  
                             Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT                    relative to the judicial retirement plan.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 Judicial Retirement Plan; Benefits. RSA 100-C:5 through RSA 100-C:7 are repealed and  
2 reenacted to read as follows:

3            100-C:5 Service Retirement Benefits.

4            I. Any member who has 15 years of creditable service and is at least 62 years of age, or who  
5 has 10 years or creditable service and is at least 67 years of age, or who has 7 years of creditable  
6 service and is 70 years of age may retire on a service retirement allowance, upon written application  
7 to the board setting forth on what date, not less than 30 days nor more than 90 days subsequent to  
8 the filing of the application, the member desires to be retired. During such period of notification, the  
9 member may have separated from service.

10           II. A member who meets the age and years of service requirements specified in paragraph I  
11 may retire on a service retirement allowance equal to 4 percent of the member's final year's salary  
12 multiplied by the number of years of the member's creditable service; provided, however, that under  
13 no circumstances shall any service retirement allowance exceed 75 percent of the member's final  
14 year's salary.

15           III. A member who has a minimum of 5 years of creditable service and who is not eligible for  
16 a retirement service allowance under this section may retire without a retirement service allowance  
17 at any time. Election to retire under this section shall terminate the judge's membership in the  
18 judicial retirement plan and shall irrevocably extinguish the judge's rights under RSA 491-A:1 and  
19 under RSA 100-C:6 and RSA 100-C:7. Election to retire under this section shall entitle the judge to  
20 payment of his or her accumulated contributions to the member annuity savings fund, together with  
21 any interest that may have accrued at rates determined by the board of trustees.

22           100-C:6 Disability Retirement Benefits.

23           I. Regardless of a member's length of service, any member who becomes permanently and  
24 totally disabled may apply to the board of trustees to retire on a disability retirement allowance not  
25 less than 30 days nor more than 90 days subsequent to the filing of such application. Such  
26 application shall be granted provided that a physician or physicians designated by the board of  
27 trustees, after a medical examination of such member, certifies that the member is mentally or  
28 physically incapacitated for further performance of duty, that such incapacity is likely to be  
29 permanent, and that such person should be retired. A member's disability retirement allowance  
30 shall be 70 percent of the member's final year salary for the period from the date of the member's  
31 disability through the date when the member reaches age 70, at which time the allowance converts

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1 to the amount the member would have received if the member had remained in regular service until  
2 age 70 at a final year's salary equal to the member's final year's salary on the date of the member's  
3 disability.

4 II. Unless the member and, if the member is married, the member's spouse elects to waive  
5 this provision, which waiver must be executed in writing, a member who is married or who has  
6 children under the age of 18 at the time of the member's disability retirement shall receive the  
7 following disability retirement benefit, which shall be of equivalent actuarial value to the benefit  
8 payable if this section were not applicable to such member: a reduced disability retirement allowance  
9 payable during the member's life, with the provision that, upon the member's death, the member's  
10 surviving spouse, so long as he or she remains unmarried, or, if the member leaves no spouse, or at  
11 the surviving spouse's death or remarriage, the member's child or children under 18 years of age  
12 until they respectively reach their eighteenth birthday, shall be paid a disability retirement  
13 allowance equal to 50 percent of the disability retirement allowance payable to the member at the  
14 time of the member's death; provided that, if the member dies before age 70, said amount shall be  
15 paid for the period from the date of the member's death until the date the member would have  
16 reached age 70, at which time the benefit converts to 50 percent of the amount the member would  
17 have received if the member had remained in regular service to age 70 at a final year's salary equal  
18 to the member's final year's salary on the date of the member's disability. In case there is more than  
19 one child, the compensation shall be divided equally among them.

20 100-C:7 Death, Spousal and Dependent Benefits.

21 I. Unless the member and, if the member is married, the member's spouse elects to waive  
22 this provision, which waiver shall be executed in writing, a member who is married or who has  
23 children under the age of 18 at the time of the member's retirement shall receive the following  
24 service retirement benefit, which shall be of equivalent actuarial value to the benefit payable if this  
25 section were not applicable to such member: a reduced retirement allowance payable during the  
26 retired member's life, with the provision that, upon the member's death, the member's surviving  
27 spouse, so long as he or she remains unmarried, or, if the member leaves no spouse, or at the  
28 surviving spouse's death or remarriage, the member's child or children under 18 years of age until  
29 they respectively reach their eighteenth birthday, shall be paid a retirement allowance equal to 50  
30 percent of the retirement allowance payable to the member at the time of the member's death. In  
31 case there is more than one child, the compensation shall be divided equally among them.

32 II. If a member dies in office, his or her surviving spouse, as long as he or she remains  
33 unmarried, or, if the member leaves no spouse, or at the surviving spouse's death or remarriage,  
34 then the member's child or children under the age of 18 years and until they respectively reach their  
35 eighteenth birthday, shall be entitled to the following benefit: 70 percent of the member's yearly  
36 salary at the time of death for the period from the date of the member's death through the date when  
37 the member would have reached age 70, at which time the benefit shall be reduced to 50 percent of

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1 the benefit the member would have received if the member had remained in service until age 70 and  
2 had a final year's salary equal to the yearly salary of the member on the date of the member's death.  
3 In case there is more than one child, the compensation shall be divided equally among them.

4 2 New Section; Judicial Retirement Plan; Applicability. Amend RSA 100-C by inserting after  
5 section 3 the following new section:

6 100-C:3-a Applicability. Notwithstanding any other provision of law, a judge shall remain  
7 subject to the provisions of this chapter that are in effect at the time the judge becomes a member of  
8 the judicial retirement plan.

9 3 Judicial Retirement Plan; Member Contributions. Amend RSA 100-C:14, I to read as follows:

10 I. All member contributions to the judicial retirement plan shall be payable only with  
11 respect to membership service, and picked up by the state by means of payroll deduction and shall be  
12 treated as employer contributions for purposes of Section 414(h) of the Internal Revenue Code of  
13 1986, as amended. The member contribution rate shall be fixed biennially by the board of trustees  
14 and shall be calculated so that the rate percent of earnable compensation deducted is one-half of the  
15 annual contribution requirements of the judicial retirement plan as determined in RSA 100-C:13, I.  
16 In no year shall the member contribution rate exceed 10 percent of a member's earnable  
17 compensation. ~~[Once a member attains eligibility for a service retirement allowance equal to 75~~  
18 ~~percent of the member's final year's salary pursuant to RSA 100-C:5, said member shall not be~~  
19 ~~required to have deductions made from earnable compensation for purposes of this section provided~~  
20 ~~that the state contributions for such member under RSA 100-C:13, IV shall continue until the~~  
21 ~~member's retirement.]~~

22 4 Reference Corrected; Retired Judges; Judicial Referees. Amend RSA 493-A:1, IV to read as  
23 follows:

24 IV. In the case of a retired full-time justice, in good standing, of the New Hampshire  
25 supreme, superior, district, or probate court who forgoes a retirement service allowance pursuant to  
26 RSA 100-C:5, [VII] **III** and who elects to take senior active status under paragraph I, the justice may  
27 serve as provided in paragraph II with compensation under RSA 493-A:1-b limited to per diem  
28 payment and expenses. No person who retires under the provisions of this paragraph shall be  
29 considered a "retired employee," as defined in RSA 21-I:30, for purposes of eligibility for state-paid  
30 medical and surgical benefits.

31 5 Effective Date. This act shall take effect July 1, 2021.

**HB 248-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT                      relative to the judicial retirement plan.

**FISCAL IMPACT:**    ☒ State                      ☐ County                      ☐ Local                      ☐ None

| STATE:                 | Estimated Increase / (Decrease)  |         |         |             |
|------------------------|--|---------|---------|-------------|
|                        | FY 2021  | FY 2022 | FY 2023 | FY 2024     |
| <b>Appropriation</b>   | \$0  | \$0     | \$0     | \$0         |
| <b>Revenue</b>         | \$0  | \$0     | \$0     | \$0         |
| <b>Expenditures</b>    | \$0  | \$0     | \$0     | (\$710,000) |
| <b>Funding Source:</b> | <input checked="" type="checkbox"/> General Retirement Plan <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Judicial |         |         |             |

**METHODOLOGY:**

The New Hampshire Judicial Retirement Plan reports this bill would reduce State expenditures beginning in FY 2024. The bill would only affect judges hired after the effective date of July 1, 2021. The estimated amount in FY 2024 is based on an actuarial estimate from November 2018 and a projected payroll amount of \$11,365,147 in FY 2024. No savings will occur before FY 2024 as there will be no adjustment to the employer contribution rate until then. The savings will be greater in future years as more judges are hired after the effective date of the bill.

**AGENCIES CONTACTED:**

New Hampshire Judicial Retirement Plan