

[Introduced March 5, 2013; referred to the  
Committee on Pensions and Retirement then Finance.]

§51-9-4. Required percentage contributions from salaries; any termination of required contributions prior to actual retirement disallowed; leased employees; military service credit; maximum allowable and qualified

1                   **military service; qualifiable prosecutorial service.**

2           (a) Every person who is now serving or shall hereafter serve  
3 as a judge of any court of record of this state shall pay into the  
4 Judges' Retirement Fund six percent of the salary received by such  
5 person out of the State Treasury: *Provided*, That when a judge  
6 becomes eligible to receive benefits from such trust fund by actual  
7 retirement, no further payment by him or her shall be required,  
8 since such employee contribution, in an equal treatment sense,  
9 ceases to be required in the other retirement systems of the state,  
10 also, only after actual retirement: *Provided, however*, That on and  
11 after January 1, 1995, every person who is then serving or shall  
12 thereafter serve as a judge of any court of record in this state  
13 shall pay into the Judges' Retirement Fund nine percent of the  
14 salary received by that person: *Provided further*, That consistent  
15 with the salary increase granted to judges of courts of record  
16 during the 2005 regular legislative session and to changes  
17 effectuated in judicial retirement by provisions enacted during the  
18 third extraordinary legislative session of 2005, on and after July  
19 1, 2005, every person who is then serving or shall thereafter serve  
20 as a judge of any court of record in this state shall pay into the  
21 Judges' Retirement Fund ten and one-half percent of the salary  
22 received by that person: *And provided further, That on and after*  
23 *July 1, 2013, except as provided in subsection (b) of this section,*  
24 *every person who is then serving or shall thereafter serve as a*

1 judge of any court of record in this state and who elects to  
2 participate in this retirement system shall pay into the Judges'  
3 Retirement Fund seven percent of the salary received. Any prior  
4 occurrence or practice to the contrary, in any way allowing  
5 discontinuance of required employee contributions prior to actual  
6 retirement under this retirement system, is rejected as erroneous  
7 and contrary to legislative intent and as violative of required  
8 equal treatment and is hereby nullified and discontinued fully,  
9 with the State Auditor to require such contribution in every  
10 instance hereafter, except where no contributions are required to  
11 be made under any of the provisions of this article.

12 (b) On and after July 1, 2014, every person who is serving or  
13 shall hereafter serve as a judge of any court of record of this  
14 state and who elects to participate in this retirement system shall  
15 contribute to the fund an amount determined by the board. This  
16 amount will be based on the annual actuarial valuation prepared by  
17 the State Actuary: Provided, That the contribution will be no  
18 less than seven percent or no more than ten and one-half percent of  
19 the participant's annual compensation.

20 ~~(b)~~ (c) An individual who is a leased employee shall not be  
21 eligible to participate in the system. For purposes of this  
22 system, a "leased employee" means any individual who performs  
23 services as an independent contractor or pursuant to an agreement  
24 with an employee leasing organization or other similar

1 organization. If a question arises regarding the status of an  
2 individual as a leased employee, the board has the final power to  
3 decide the question.

4 ~~(c)~~ (d) In drawing warrants for the salary checks of judges,  
5 the State Auditor shall deduct from the amount of each such salary  
6 check six percent thereof, which amount so deducted shall be  
7 credited by the Consolidated Public Retirement Board to the trust  
8 fund: *Provided*, That on or after January 1, 1995, the amount so  
9 deducted and credited shall be nine percent of each such salary  
10 check: *Provided, however*, That consistent with the salary increase  
11 granted to judges of courts of record during the 2005 regular  
12 legislative session and to changes effectuated in judicial  
13 retirement by provisions enacted during the third extraordinary  
14 legislative session of 2005, on or after July 1, 2005, the amount  
15 so deducted and credited shall be ten and one-half percent of each  
16 such salary check: *Provided further*, That on and after July 1,  
17 2013, except as provided in subsection (b) of this section, the  
18 amount so deducted and credited shall be seven percent of each  
19 salary check: *And provided further*, That on and after July 1,  
20 2014, the amount so deducted and credited will be determined by the  
21 board.

22 ~~(d)~~ (e) Any judge seeking to qualify military service to be  
23 claimed as credited service, in allowable aggregate maximum amount  
24 up to five years, shall be entitled to be awarded the same without

1 any required payment in respect thereof to the Judges' Retirement  
2 Fund.

3       ~~(e)~~ (f) Notwithstanding the preceding provisions of this  
4 section, contributions, benefits and service credit with respect to  
5 qualified military service shall be provided in accordance with  
6 Section 414(u) of the Internal Revenue Code. For purposes of this  
7 section, "qualified military service" has the same meaning as in  
8 Section 414(u) of the Internal Revenue Code. The Retirement Board  
9 is authorized to determine all questions and make all decisions  
10 relating to this section and may promulgate rules relating to  
11 contributions, benefits and service credit pursuant to the  
12 authority granted to the retirement board in section one, article  
13 ten-d, chapter five of this code to comply with Section 414(u) of  
14 the Internal Revenue Code.

15       ~~(f)~~ (g) Any judge holding office as such on the effective date  
16 of the amendments to this article adopted by the Legislature at its  
17 1987 regular session who seeks to qualify service as a prosecuting  
18 attorney as credited service, which service credit must have been  
19 earned prior to the year 1987, shall be required to pay into the  
20 Judges' Retirement Fund nine percent of the annual salary which was  
21 actually received by such person as prosecuting attorney during the  
22 time such prosecutorial service was rendered prior to the year 1987  
23 and for which credited service is being sought, together with  
24 applicable interest. No judge whose term of office shall commence

1 after the effective date of such amendments to this article shall  
2 be eligible to claim any credit for service rendered as a  
3 prosecuting attorney as eligible service for retirement benefits  
4 under this article, nor shall any time served as a prosecutor after  
5 the year 1988 be considered as eligible service for any purposes of  
6 this article.

NOTE: The purpose of this bill is to provide a sliding scale for the retirement contribution of judges participating in the judicial retirement system to ensure that the judicial pension system remains fully funded and is a "qualifying system" under federal law.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.