

the act shall be and become inoperative and of no force or effect in its entirety.

Passed the Senate March 6, 1937.

Passed the House March 10, 1937.

Approved by the Governor March 22, 1937.

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## CHAPTER 229.

[S. B. 135.]

### RETIREMENT OF SUPREME AND SUPERIOR COURT JUDGES.

AN ACT providing for the retirement of judges of the supreme and superior courts; fixing the amount of their retirement pay; providing funds therefor; and making an appropriation.

*Be it enacted by the Legislature of the State of Washington:*

Retirement.

SECTION 1. Any judge of the supreme or superior court of the State of Washington who heretofore and/or hereafter shall have served as a judge of either or both of such courts for eighteen years in the aggregate or who shall have served ten years in the aggregate and shall have attained the age of seventy years or more may, during or at the expiration of his term of office, in accordance with the provisions of this act, be retired and receive the retirement pay herein provided for. Any judge desiring to retire under the provisions of this section shall file with the state treasurer, who is hereby created treasurer, *ex officio*, of the fund hereinafter established, and who is hereinafter referred to as "the treasurer," a notice in duplicate in writing, verified by his affidavit, fixing a date when he desires his retirement to commence, one copy of which the treasurer shall forthwith file with the state auditor. The notice shall state his name, the court or courts of which he has served as judge, the period of

Notice,  
contents.

service thereon and the dates of such service. No retirement shall be made within a period of less than thirty days after such statement is filed, and no retirement after separation from office by expiration of term shall be allowed unless the statement be filed within thirty days thereafter.

SEC. 2. Any judge of the supreme or superior court of the State of Washington, who heretofore and/or hereafter shall have served as a judge of either or both such courts for a period of ten years in the aggregate, and who shall believe he has become physically or otherwise permanently incapacitated for the full and efficient performance of the duties of his office, may file with the treasurer an application in duplicate in writing, asking for retirement, which application shall be signed and verified by the affidavit of the applicant or by someone in his behalf and which shall set forth his name, the office then held, the court or courts of which he has served as judge, the period of service thereon, the dates of such service and the reasons why he believes himself to be, or why they believe him to be incapacitated. Upon filing of such application the treasurer shall forthwith transmit a copy thereof to the governor who shall appoint three physicians of skill and repute, duly licensed to practice their professions in the State of Washington, who shall, within fifteen days thereafter, for such compensation as may be fixed by the governor, to be paid out of the fund hereinafter created, examine said judge and report, in writing, to the governor their findings in the matter. If a majority of such physicians shall report that in their opinion said judge has become permanently incapacitated for the full and efficient performance of the duties of his office, and if the governor shall approve such report, he shall file the report, with his approval endorsed thereon, in the office of the treasurer and a duplicate copy

Application  
for retire-  
ment.

Physical  
examination.

thereof with the state auditor, and from the date of such filing the applicant shall be deemed to have retired from office and be entitled to the benefits of this act to the same extent as if he had retired under the provisions of section 1 hereof.

Retirement  
pay.

SEC. 3. Every judge of the supreme or superior court of the State of Washington who shall have retired from office under the provisions of this act shall be entitled to receive monthly during the period of his natural life, out of the fund hereinafter created, an amount equal to one half of the monthly salary he was receiving as a judge at the time of his retirement, or at the end of the term immediately prior to his retirement if his retirement is made after expiration of his term. The retirement pay herein provided for shall be paid monthly by the state treasurer on or before the tenth day of each month. If at any time when a monthly payment shall become due, the amount to the credit of said fund shall be inadequate to pay in full the compensation of all retired judges entitled thereto, said judges shall be paid only their proportionate and *pro rata* share of the available funds.

Retired  
judge to hold  
court, when.

SEC. 4. That every judge of the superior court of the State of Washington who shall have retired from office under the provisions of this act, during the balance of the term for which he shall have been elected, shall, if physically able, hold court when and where required to do so by the president-judge of The Association of the Superior Court Judges of the State of Washington, without compensation, but he shall be paid his necessary expenses by the county where so engaged; and every judge of the supreme or superior court of the State of Washington who shall have retired from office under the provisions of this act, may be required to act as judge *pro tem*, if physically able, when so appointed by the presiding judge of the superior court of any judicial

Judge  
*pro tem*.

district in this state, without compensation, but he shall be paid his necessary expenses by the county where so engaged.

SEC. 5. There is hereby created a fund to be known as "The Judges' Retirement Fund" which shall consist of the monies appropriated from the general fund in the state treasury, as hereinafter provided; the deductions from salaries of judges, as hereinafter provided, and all gifts, donations, bequests and devises made for the benefit of said fund, and the rents, issues and profits thereof, or proceeds of sales of assets thereof. The treasurer shall be custodian of the monies in said Judges' Retirement Fund. He shall receive all monies payable into said fund and make disbursements therefrom as provided in this act. He shall keep written permanent records showing all receipts and disbursements of said fund and shall make an annual written report showing receipts and disbursements and the status of said fund as of December thirty-first of each year, and shall, on or before the first day of February of each year, file one copy thereof with the governor, and one copy with the president-judge of The Association of the Superior Court Judges of the State of Washington. The treasurer's account shall be audited at convenient times by the state auditor. The treasurer shall receive no compensation for his services hereunder other than his salary as state treasurer, but he shall be allowed from said fund his actual expenses in connection with his duties hereunder. The monies in said fund shall be deposited by the treasurer in the name of said fund in such bank or banks as may be directed by the state finance committee. The treasurer shall furnish a surety company bond in the sum of twenty-five thousand dollars (\$25,000), conditioned for the faithful discharge of his duties, and a strict accounting for all monies received by him under the pro-

The judges  
retirement  
fund created.

Treasurer.

Account  
audited.

Surety  
bond.

Depository  
banks.

visions of this act, the premium for such bond to be paid out of the monies in said fund. The treasurer shall require from all banks holding deposits of monies belonging to said fund, deposits of securities or surety company bonds to indemnify said fund against loss, the same as are required of depositories of state funds, which deposit of securities or surety company bonds shall at all times be ample and sufficient to cover all deposits from said fund.

Salary  
deductions.

Withdrawals  
from general  
fund.

SEC. 6. For the purpose of providing monies in said Judges' Retirement Fund, concurrent monthly deductions from judges' salaries and portions thereof payable from the state treasury and withdrawals from the general fund of the state treasury shall be made as follows:  $2\frac{1}{2}\%$  shall be deducted from the monthly salary of each judge of the supreme court and  $2\frac{1}{2}\%$  of the total salaries of each judge of the superior court shall be deducted from that portion of the salary of such judges payable from the state treasury; and a sum equal to  $2\frac{1}{2}\%$  of the combined salaries of the judges of the supreme court and the judges of the superior court shall be withdrawn from the general fund of the state treasury. The deductions and withdrawals herein directed shall be made on or before the tenth day of each month and shall be based on the salaries of the next preceding calendar month. The state auditor shall issue warrants payable to the treasurer to accomplish the deductions and withdrawals herein directed, and shall issue the monthly salary warrants of the judges for the amount of salary payable from the state treasury after such deductions have been made. The treasurer shall cash the warrants made payable to him hereunder and place the proceeds thereof in the Judges' Retirement Fund for disbursement as authorized in this act.

Monthly sal-  
ary warrants.

Provisions  
not appli-  
cable, when.

SEC. 7. This act shall not apply to any judge during any unexpired term to which he shall have

been elected or appointed at the time this act take[s] effect, or to any judge who may hereafter be elected or appointed for a term that has not expired when this act takes effect, unless he shall within sixty days after this act takes effect, or within sixty days after his appointment, file with the treasurer and state auditor a written notice and declaration that he desires to take advantage of this act and consents that 2½% of his monthly salary may thereafter from a specified date be deducted from any salary payable to him from the state treasury; and from and after the specified date he shall be entitled to the benefits of this act if otherwise qualified. On and after the dates specified in said notice and declaration, it shall be the duty of the state auditor to deduct from the monthly salary of the judge, or portion thereof payable from the state treasury, a sum equivalent to 2½% of his total salary and to withdraw from the general fund of the state treasury a sum equivalent to the amount of such deductions, which withdrawals and deductions shall be made on or before the tenth day of the month and shall be based on the salaries of the preceding calendar month. All withdrawals and deductions and salary payments made under this section shall be made and disposed of in the same manner that is provided for deductions, withdrawals and salary payments in section 6 hereof.

SEC. 8. Whenever the treasurer shall estimate that the balance of cash remaining in the Judges' Retirement Fund, together with the estimated receipts for the remainder of the fiscal year, will exceed the estimated disbursements for the remainder of such year in the sum of one thousand dollars (\$1,000) or more, he shall invest such excess in such bonds as are by law authorized for the investment of the permanent school funds of the state. Whenever it shall appear to the treasurer that the cash

Investment  
of excess.

remaining in said fund, together with the estimated receipts for the remainder of the fiscal year, will not meet the estimated disbursements as they shall fall due, it shall be his duty to sell so many of any bonds belonging to said fund as will produce cash sufficient for that purpose, and to deposit the proceeds of such sale in said fund.

Appropriation.

SEC. 9. For the purpose of carrying out the provisions of this act, there is hereby appropriated from the general fund in the state treasury for the biennium ending March thirty-first, 1939, the sum of ten thousand dollars (\$10,000.00), or so much thereof as may be necessary, not, however, to exceed deductions from judges' salaries made under the provisions of this act.

Partial invalidity.

SEC. 10. If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Passed the Senate March 2, 1937.

Passed the House March 7, 1937.

Approved by the Governor March 22, 1937.