

Public Law 88-644

AN ACT

October 13, 1964
[H. R. 5871]

To modify the retirement benefits of the judges of the District of Columbia Court of General Sessions, the District of Columbia Court of Appeals, and the Juvenile Court of the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11-1701 of the District of Columbia Code is amended to read as follows:

District of Columbia Judges Retirement Act of 1964.
77 Stat. 502.

“§ 11-1701. Retirement, resignation, and nonreappointment of judges; recall

“(a) (1) Any judge of the District of Columbia Court of General Sessions, any judge of the District of Columbia Court of Appeals (as established by this Act), or any judge of the Juvenile Court of the District of Columbia who is subject to this subsection shall hereafter be eligible to retire after having served as a judge of such court or courts for a period or periods aggregating ten years or more, whether continuously or not. Any judge who so retires shall receive annually in equal monthly installments, during the remainder of his life, a sum equal to such proportion of the salary received by such judge at the date of such retirement as the total of his aggregate years of service bears to the period of thirty years, the same to be paid in the same manner as the salary of such judge: *Provided*, That if any such judge shall retire after twenty or more years of service, other than for permanent disability, his retirement salary shall not commence until he shall have reached the age of fifty: *Provided further, however*, That if any such judge shall retire after less than twenty years of service, other than for permanent disability, his retirement salary shall not commence until he shall have reached the age of sixty-two, except that such judge may elect to receive a reduced retirement salary beginning at the age of fifty-five or at the date of his retirement if subsequent to that age, the reduction in retirement salary in such case to be one-half of 1 per centum for each month or fraction of a month the judge is under the age of sixty-two at the time of commencement of his reduced retirement salary. In no event shall the sum received by any judge as retirement salary under this subsection be in excess of 80 per centum of the salary of such judge at the date of such retirement. In computing the years of service under this section, service in either the Police Court of the District of Columbia or the Municipal Court of the District of Columbia, or the Juvenile Court of the District of Columbia, the District of Columbia Court of Appeals, or the District of Columbia Court of General Sessions, as heretofore constituted, shall be included whether or not such service be continuous. The terms ‘retire’ and ‘retirement’ as used in this section shall mean retirement, resignation, or failure of reappointment upon the expiration of the term of office of an incumbent.

Salary limitation.

“Retire and retirement.”

Disability.

“(2) Any judge subject to this subsection may hereafter retire after having served five years or more and having become permanently disabled from performing his duties. Such judge may retire for disability by furnishing to the Commissioners of the District of Columbia a certificate of disability signed by a duly licensed physician and approved by the Surgeon General of the Public Health Service. A judge who retires for disability under this subsection shall receive annually in equal monthly installments, during the remainder of his life, a sum equal to such proportion of the salary received by such judge at the date of such retirement as the total of his aggregate years of service bears to the period of thirty years, the same to be paid in the

same manner as the salary of such judge, except that in no event shall the sum received by any judge as retirement salary hereunder be in excess of 80 per centum of the salary of such judge at the date of such retirement for disability.

Recall to service.

"(3) Any judge receiving retirement salary under the provisions of this subsection or under the provisions of this section as it existed immediately prior to its amendment by the District of Columbia Judges Retirement Act of 1964 may be called upon by the chief judge of the District of Columbia Court of General Sessions, or the chief judge of the District of Columbia Court of Appeals, or the chief judge of the Juvenile Court of the District of Columbia, to perform such judicial duties as may be requested of him in any of such courts, but in any event no such retired judge shall be required to render such service for a total of more than ninety days in any calendar year after such retirement. Any judge called upon pursuant to this subsection to perform judicial duties who, for any reason except illness or disability, fails to perform such duties so requested shall forfeit all right to retired pay under this section for the one-year period which begins on the first day on which he so fails to perform such duties. In case of illness or disability precluding the rendering of such service such judge shall be fully relieved of any such duty during such illness or disability.

Salary deductions.

"(4) From and after the first day of the first pay period which begins on or after the effective date of the District of Columbia Judges Retirement Act of 1964, there shall be deducted and withheld from the basic salary of each judge subject to the provisions of this subsection an amount equal to $3\frac{1}{2}$ per centum of such judge's basic salary. The amounts so deducted and withheld shall, in accordance with such procedures as may be prescribed by the Commissioners of the District of Columbia, be deposited in the District of Columbia Judicial Retirement and Survivors Annuity Fund established pursuant to paragraph (1) of subsection (d) of this section. Each judge subject to the provisions of this subsection shall be deemed to consent and agree to such deductions from basic salary and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular service during the period covered by such payment, except the right to the benefits to which he shall be entitled under this subsection, notwithstanding any law, rule, or regulation affecting the individual's salary.

Post, p. 1061.

Deposits.

"(5) Each judge subject to the provisions of this subsection shall deposit, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, in the fund, a sum equal to $3\frac{1}{2}$ per centum of his salary received for judicial service performed by him as a judge of any court referred to in paragraph (1) of subsection (a) prior to the date he became subject to the provisions of this subsection. Each judge may elect to make such deposits in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioners of the District of Columbia. Notwithstanding the failure of any such judge to make such deposits, credit shall be allowed for the service rendered but the retirement pay of such judge shall be reduced by 10 per centum of such deposit remaining unpaid, unless such judge shall elect to eliminate the service involved for purposes of retirement salary computation.

Resignation or death.

"(6) If any judge who is subject to the provisions of this subsection resigns from his judicial office otherwise than under the provisions of this subsection, all amounts deducted from his salary under paragraph (4) and deposited by him under paragraph (5), together with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per

annum thereafter, compounded on December 31 of each year, to the date of his relinquishment of office, shall be returned to him. In any case in which any such judge, who has not elected to bring himself within the purview of subsection (b) of this section, dies while in regular active service, all amounts so deducted from his salary and deposited by him under this subsection remaining in the fund at the time of his death, together with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the date of his death, shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving him in the order of precedence provided for in paragraph (7) of subsection (b). Such payments shall be a bar to recovery by any other person.

“(7) All judges of the District of Columbia Court of General Sessions, the District of Columbia Court of Appeals, and the Juvenile Court of the District of Columbia shall be subject to the provisions of this subsection, except that any such judge who is serving as such on the effective date of the District of Columbia Judges Retirement Act of 1964 shall be subject to this subsection (except paragraph (3) of this subsection) only if, within one year following such date, such judge files with the Commissioners of the District of Columbia a written election to come within the purview of this subsection. Such election once made shall be irrevocable. If no election is made within such one-year period, such judge shall have his right to retirement salary and the amount thereof determined as though the District of Columbia Judges Retirement Act of 1964 had not been enacted.

Election of
benefits by
judges.

“(b) (1) Any judge of any of the courts referred to in paragraph (1) of subsection (a), whether or not subject to the provisions of subsection (a) of this section, or any judge retired under the provisions of this section as it existed prior to the enactment of the District of Columbia Judges Retirement Act of 1964, may, by written election filed with the Commissioners of the District of Columbia within six months after the date on which he takes office, or is reappointed to office (or within six months after the effective date of the District of Columbia Judges Retirement Act of 1964), bring himself within the purview of this subsection.

“(2) There shall be deducted and withheld from the salary of each judge electing to bring himself within the purview of this subsection a sum equal to 3 per centum of such judge's salary, including salary paid after retirement under the provisions of this section. The amounts so deducted and withheld from the salary of each such judge shall, in accordance with such procedure as may be prescribed by the Commissioners of the District of Columbia, be deposited in the fund. Every judge who elects to bring himself within the purview of this subsection shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the provisions of this subsection.

“(3) Each judge who has elected to bring himself within the purview of this subsection shall deposit, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the credit of the fund, a sum equal to 3 per centum of his salary received for service as a judge of any of the courts referred to in paragraph (1) of subsection (a), including salary received after retirement, and of his basic salary, pay, or compensation for services as a Senator, Representative, Delegate, or Resident Commissioner in Congress and for any other civilian serv-

70 Stat. 745.

ice within the purview of section 3 of the Civil Service Retirement Act (5 U.S.C. 2253). Such interest shall not be required for any period during which the judge was separated from all such service and was not receiving retirement salary under this section. Each judge may elect to make such deposits in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioners. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annuity of the widow of such judge shall be reduced by an amount equal to 10 per centum of the amount of such deposit, computed as of the date of the death of such judge, unless such widow shall elect to eliminate such service entirely from credit under paragraph (13) of this subsection: *Provided*, That no deposit shall be required from a judge for any service rendered prior to August 1, 1920, or for any honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

"(4) If any judge who has elected to bring himself within the purview of this subsection resigns from office otherwise than under the provisions of this section, the amount credited to his individual account under this subsection, together with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum, thereafter, compounded on December 31 of each year, to the date of his relinquishment of office, shall be returned to him.

Annuity benefits.

"(5) In case any judge who has elected to bring himself within the purview of this subsection shall die while in regular active service or after having retired from such service under the provisions of this section, after having rendered at least five years of civilian service computed as prescribed in paragraph (13) of this subsection for the last five years of which the salary deductions provided for by paragraph (2) of this subsection or the deposits required by paragraph (3) of this subsection have actually been made—

"(A) If such judge is survived by a widow but not by a dependent child, there shall be paid to such widow an annuity beginning with the day of the death of the judge or following the widow's attainment of the age of fifty years, whichever is later, in an amount computed as provided in paragraph (12) of this subsection; or

"(B) if such judge is survived by a widow and a dependent child or children, there shall be paid to such widow an immediate annuity in an amount computed as provided in paragraph (12) of this subsection and there shall also be paid to or on behalf of each such child an immediate annuity equal to one-half the amount of the annuity of such widow, but not to exceed \$900 per year divided by the number of such children or \$360 per year, whichever is lesser; or

"(C) if such judge leaves no surviving widow or widower but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the amount of the annuity to which such widow would have been entitled under paragraph (A) of this subsection had she survived, but not to exceed \$480 per year.

The annuity payable to a widow under this subsection shall be terminable upon her death or remarriage. The annuity payable to a child under this subsection shall be terminable upon (i) his attaining the age of eighteen years, (ii) his marriage, or (iii) his death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability his annuity shall be terminable only upon death, marriage, or recovery from such disability after attaining the age of eighteen years. In case of the death of a widow of a judge leaving a dependent child or children of the judge surviving her the

annuity of such child or children shall be recomputed and paid as provided in subparagraph (C) of this paragraph. In any case in which the annuity of a dependent child, under this subsection, is terminated, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

“(6) As used in this subsection—

Definitions.

“(A) The term ‘widow’ means a surviving wife of an individual who either (i) shall have been married to such individual for at least two years immediately preceding his death or (ii) is the mother of issue by such marriage, and who has not remarried.

“(B) The term ‘dependent child’ means an unmarried child, including a dependent stepchild or an adopted child, who is under the age of eighteen years or who because of physical or mental disability is incapable of self-support.

Questions of dependency and disability arising under this subsection shall be determined by the Commissioners of the District of Columbia. The Commissioners may order or direct at any time such medical or other examinations as they shall deem necessary to determine the facts relative to the nature and degree of disability of any dependent child who is an annuitant or applicant for annuity under this subsection, and may suspend or deny any such annuity for failure to submit to any examination.

Determination of
dependency and
disability.

“(7) In any case in which (A) a judge who has elected to bring himself within the purview of this subsection shall die (i) while in regular active service after having rendered five years of civilian service computed as prescribed in paragraph (13) of this subsection, or while receiving retirement salary under this section, but without a survivor or survivors entitled or who, upon attaining the age of fifty, will become entitled, to annuity benefits provided by paragraph (5) of this subsection, or (ii) while in regular active service but before having rendered five years of such civilian service or (B) the right of all persons entitled to an annuity under paragraph (5) of this subsection based on the service of such judge shall terminate before a valid claim therefor shall have been established, the total amount credited to an individual account of such judge under this section, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum, thereafter, compounded on December 31 of each year, to the date of the death of such judge, shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence, and such payment shall be a bar to recovery by any other person:

“First, to the beneficiary or beneficiaries whom the judge may have designated by a writing received by the Commissioners of the District of Columbia prior to his death;

“Second, if there be no such beneficiary, to the widow of such judge;

“Third, if none of the above, to the child or children of such judge and the descendants of any deceased children by representation;

“Fourth, if none of the above, to the parents of such judge or the survivor of them;

“Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such judge;

“Sixth, if none of the above, to such other next of kin of such judge as may be determined by the Commissioners to be entitled under the laws of the domicile of such judge at the time of his death.

Determination as to the widow or child of a judge for the purposes of

this subsection shall be made by the Commissioners without regard to the definition of these terms stated in paragraph (6) of this subsection.

"(8) In any case in which the annuities of all persons entitled to annuity based upon the service of a judge shall terminate before the aggregate amount of annuity paid (together with any amounts received by the judge as retirement salary) equals the total amount credited to the individual account of such judge under this section, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the date of the death of such judge, the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in paragraph (7) of this subsection.

"(9) Any accrued annuity remaining unpaid upon the termination (other than by reason of death) of the annuity of any person based upon the service of a judge shall be paid to such person. Any accrued annuity remaining unpaid upon the death of any person receiving an annuity based upon the service of a judge shall be paid, upon establishment of a valid claim therefor, in the following order of precedence:

"First, to the duly appointed executor or administrator of the estate of such person;

"Second, if there is no such executor or administrator, payment may be made, after the expiration of thirty days from the date of the death of such person, to such individual or individuals as may appear in the judgment of the Commissioners to be legally entitled thereto, and such payments shall be a bar to recovery by any other individual.

"(10) Where any payment under this subsection is to be made to a minor or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary by the law of the jurisdiction wherein the claimant resides or is otherwise legally vested with the care of the claimant or his estate. Where no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the jurisdiction wherein the claimant resides, the Commissioners shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

"(11) Annuities granted under the terms of this subsection shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued.

"(12) The annuity of the widow of a judge who has elected to bring himself within the purview of this subsection shall be an amount equal to the sum of (A) $11\frac{1}{4}$ per centum of the average annual salary received by such judge for judicial service and any other prior allowable service during the last five years of such service prior to his death, or retirement from office under this section, multiplied by the sum of his years of judicial service, his years of prior allowable service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, his years of prior allowable service performed as a member of the Armed Forces of the United States, and his years, not exceeding fifteen, of prior allowable service performed as an employee described in section 1(c) of the Civil Service Retirement Act and (B) three-fourths of 1 per centum of such average annual salary multiplied by his years of any other prior allowable service, but such annuity shall not exceed $37\frac{1}{2}$ per centum of such average annual salary and shall be further reduced in accordance with paragraph (3) of this subsection, if applicable.

"(13) Subject to the provisions of paragraph (3) of this subsection, the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of his widow shall include his years

of service as a judge of one of the courts referred to in paragraph (1) of subsection (a) of this section (whether in regular active service or retired from such service under this section), his years of service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, his years of active service as a member of the Armed Forces of the United States not exceeding five years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and his years of any other civilian service within the purview of section 3 of the Civil Service Retirement Act.

70 Stat. 745.
5 USC 2253.

"(14) Nothing contained in this subsection shall be construed to prevent a widow eligible therefor from simultaneously receiving an annuity under this subsection and any annuity to which she would otherwise be entitled under any other law without regard to this subsection, but in computing such other annuity, service used in the computation of her annuity under this subsection shall not be credited.

"(c) Nothing contained in this section shall be construed to prevent a judge eligible therefor from simultaneously receiving his retirement salary under this section and any annuity to which he would otherwise be entitled under any other law without regard to this section, but in computing such annuity, service used in the computation of retirement salary under this section shall not be credited: *Provided, however,* That nothing contained in this section shall be construed to prevent a judge of any court referred to in paragraph (1) of subsection (a) who is serving on the effective date of the District of Columbia Judges Retirement Act of 1964, and who does not elect under paragraph (7) of subsection (a) to come within the purview of such subsection, from electing to waive the provisions of this section regarding retirement salary and crediting service hereunder in computing any annuity to which he would otherwise be entitled under any other law without regard to this section; nor shall anything contained in this section (except paragraph (7) of subsection (a) of this section) or in any other law be construed to require any such judge eligible therefor to elect to waive either the provisions of this section regarding retirement salary and annuities or the provisions of any other law relating to retirement salary or annuities prior to the date of his retirement.

"(d) (1) There is hereby established in the Treasury of the United States a fund to be known as the 'District of Columbia Judicial Retirement and Survivors Annuity Fund', and such fund is hereby appropriated for the payment of retirement salaries, annuities, refunds, and allowances as provided in this section. If, at any time, the balance in such fund is not sufficient to pay current obligations arising pursuant to the provisions of this section, there is authorized to be appropriated to such fund, out of any moneys in the Treasury of the United States to the credit of the District of Columbia not otherwise appropriated, such amounts as may be necessary to pay such current obligations. The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to such fund, and shall make actuarial valuations of such fund at intervals of five years, or more after if deemed necessary by the Secretary.

District of Columbia Judicial Retirement and Survivors Annuity Fund, establishment.

"(2) The Secretary of the Treasury shall invest, from time to time, in interest-bearing securities of the United States or Federal farm loan bonds, any portions of such fund as in his judgment may not be immediately required for payments from the fund, and the income derived from such investments shall constitute a part of the fund.

Investment of monies.

"(3) All amounts deposited by, or deducted and withheld from the salary of, any judge as provided under this section for credit to the fund shall, under such regulations as may be prescribed by the Commissioners of the District of Columbia, be credited to an individual account of such judge.

"(4) None of the moneys mentioned in this section shall be assignable, either in law or in equity, or be subject to execution, levy, attachment, garnishment, or other legal process.

"(5) Whenever used in this section, the term 'fund' shall mean the District of Columbia Judicial Retirement and Survivors Annuity Fund established under paragraph (1) of this subsection."

Short title.

SEC. 2. This Act may be cited as the "District of Columbia Judges Retirement Act of 1964."

Effective date.

SEC. 3. This Act shall be effective on and after the first day of the first month following the date of its enactment.

Approved October 13, 1964.

Public Law 88-645

AN ACT

October 13, 1964
[H. R. 6218]

To amend the Act of June 29, 1960, to authorize additional extensions of time for final proof by certain entrymen under the desert land laws and to make such additional extensions available to the successors in interest of such entrymen.

Desert land
laws; time extension for final
proof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to authorize an extension of time for final proof under the desert land laws under certain conditions", approved June 29, 1960 (74 Stat. 257), is amended by striking out "one extension of not more than three years within which to make final proof" and inserting in lieu thereof "extensions aggregating not more than six years within which to make final proof".

(b) Section 2 of such Act of June 29, 1960 (74 Stat. 257), is amended—

(1) by striking out "The" at the beginning of the first sentence and inserting in lieu thereof "Except as otherwise provided in this section, the";

(2) by striking out "within one extension period of not more than three years and can be completed either during such extension period" and inserting in lieu thereof "within extension periods aggregating not more than six years and can be completed during such periods of extension"; and

(3) by inserting immediately after the first sentence thereof the following new sentence: "The benefits of this Act shall be available also to successors in interest of the entrymen described in the first sentence of this section."

Approved October 13, 1964.

Public Law 88-646

AN ACT

October 13, 1964
[S. 2649]

To designate as the Graham Burke Pumping Plant the pumping plant being constructed in the State of Arkansas as part of the White River backwater unit of the Lower Mississippi River flood control project.

Graham Burke
Pumping Plant.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the pumping plant being constructed in the State of Arkansas as part of the White River backwater unit of the Lower Mississippi River flood control project shall hereafter be known as the Graham Burke Pumping Plant, and any law, regulation, document, or record of the United States in which such pumping plant is designated or referred to shall be held to refer to such pumping plant under and by the name of the Graham Burke Pumping Plant.

Approved October 13, 1964.