



STEVE CLARK
ATTORNEY GENERAL

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

OPINION NO. 85-139

June 18, 1985

Honorable Tom F. Digby
Circuit Judge
Pulaski County Courthouse
Little Rock, AR 72201

Dear Judge Digby:

This is in response to your request for an opinion regarding Act 289 of 1985. Your question is as follows:

When is retirement required, without forfeiture of retirement benefits, of a judge (1) first elected to the judiciary at the General Election in 1966, and continuously elected, and (2) born October 3, 1917.

In addition, we understand that the judge's current term will expire on December 31, 1986.

Act 289, amending Ark. Stat. Ann. §22-902(a), provides:

(a) Right to Retirement. ... In instances where the office held by such judge first elected after July 1, 1965 will be on the ballot at the first general election immediately following the judge's seventieth (70th) birthday, the judge shall forfeit all rights to draw retirement benefits under this Act if: (1) the judge continues to serve after January 1 of the year immediately following the general election and (2) the judge does not at least one year before the date of the general election notify the Secretary of State that the judge intends not to seek re-election. In instances where the office held by such judge first elected after July 1, 1965 will not be on the ballot at the first general election immediately following the judge's seventieth birthday, the judge shall forfeit all rights to draw retirement benefits under this Act if the judge continues to serve past January 1 immediately following that general election. ...

Honorable Tom F. Digby
June 18, 1985
Page 2

The first general election after the judge's seventieth birthday on October 3, 1987, is in November, 1988. The judge's term would not expire until December 31, 1990. The office held by the judge would not be on the ballot at the first general election after the judge's seventieth birthday. Therefore, the judge must retire on or before January 1, 1989, in order to receive retirement benefits under Act 289.

This opinion which I hereby approve was prepared by Assistant Attorney General Thomas S. Gay.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Clark". The signature is fluid and cursive, with a large initial "S" and a stylized "C".

STEVE CLARK
Attorney General

JSC:TSG:jk