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BILL ANALYSIS

Senate Fiscal Agency

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House Bill 5446 (as reported without amendment)

Sponsor: Representative Bart Stupak

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 3-6-90

**RATIONALE**

In order to qualify for a disability retirement, a member of the Judges' Retirement System must either have eight years of service credit, or be at least 65 years of age and have six years of service credit. These provisions leave uncompensated a judge who has served for seven years and has become disabled before reaching retirement age. Reportedly, a judge in the Upper Peninsula is in just such a predicament. The judge has seven years of service on the bench and recently suffered a debilitating stroke. In order to qualify for retirement benefits under current law, he will have to remain on the job for another year, even though he is incapacitated. From July 1, 1987, through June 30, 1988, the Judges' Retirement Act temporarily provided for the disability retirement of a member who had served seven years and was incapacitated, and many believe that the Act should do so again.

**CONTENT**

The bill would amend the Judges Retirement Act to provide for the disability retirement, between April 1, 1990, and September 30, 1990, of a retirement system member who had at least seven years of service credit and became "physically or mentally totally and permanently incapacitated to perform his or her judicial duties". The disability retiree would be entitled to a pension benefit or survivor's benefit reduced by one-eighth of the amount to which he or she otherwise would

be entitled. Such a retirement would be permitted upon the written application of the member, the chairperson of the Judicial Tenure Commission, or the Chief Justice of the Supreme Court, and the filing of the application with the retirement board and the Governor. The member would have to be examined by the retirement system's medical director, who would have to certify that the member was incapacitated and should be retired.

MCL 38.816

**BACKGROUND**

Under the Judges Retirement Act, a member who has eight years of service qualifies for a regular retirement annuity of 50% of final applicable salary. A member with six or seven years of service who has attained the age of 65 may receive a prorated annuity calculated using a formula that provides 37.5% of final salary for someone with six years' service and 43.75% for someone with seven years' service. Also, judges may choose a survivor benefit plan instead of the straight life annuity that terminates upon the retiree's death.

**FISCAL IMPACT**

There would be no fiscal impact on State or local government if this bill passed in its present form. Since very few people would be able to take advantage of the window period,

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there would be no need to increase the contribution rate for pension and health benefits. Consequently, there would be no increase in the amount contributed by local governmental units to the Judges' Retirement System.

## **ARGUMENTS**

### **Supporting Argument**

The bill would provide reasonable retirement benefits for a judge who became incapacitated before otherwise qualifying for retirement benefits. The bill would remove the current incentive for a disabled judge to postpone retirement until after the eight years were served, and would allow for compassionate treatment of judges who might have to retire early.

### **Opposing Argument**

In further widening the gap between judges' retirement requirements and those of most other State retirement systems, the bill would make poor public policy. Unlike the Judges' Retirement System, other systems distinguish between duty and nonduty disability, and require a 10-year vestment before allowing retirement on a disability not incurred in the line of duty.

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