



Michigan Supreme Court

State Court Administrative Office

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-0128

Chad C. Schmucker
State Court Administrator

January 29, 2013

The Honorable Rick Jones
Judiciary Chair
Michigan Senate
915 Farnum Building
Lansing, Michigan 48933

Re: SJR F

Dear Senator Jones:

I would like to share with you and your committee some information that you may want to consider as you debate the merits of SJR F that would eliminate the age 70 restriction on judges and justices.

Twenty-one states have an age 70 restriction on judges. About 11 more have an age limit between 72 and 75, but some implement it differently than Michigan. In Michigan, you cannot be over 70 on the date of the election. In some of these states you cannot serve past the end of the year in which you turn the highest age allowed. There are also 17 states that do not have a limit, but not all of these states have elected judges.

Many of the states that have an age 70 restriction recognize that 70 year olds today are more fit than 70 year olds may have been at the time these restrictions were adopted many years ago. I understand that many states have proposals to raise the limit. For example, in Virginia, SB 740 would increase the mandatory retirement age from 70 to 73. In Wyoming, HJR 1 would eliminate the retirement completely. Last year there were proposals in Wyoming and Arizona to increase the mandatory retirement age to 75. Ohio also considered raising their age limit.

There are a number of states that have elected judiciaries and no age limitation. To my knowledge there has not been a problem in any of those states with judges wanting to serve longer than they are able to. However, in several of those states there is a defined benefit pension plan, which may discourage judges from staying on the bench beyond their 70s. As you know, all judges taking the bench in Michigan since 1996 are in a defined contribution

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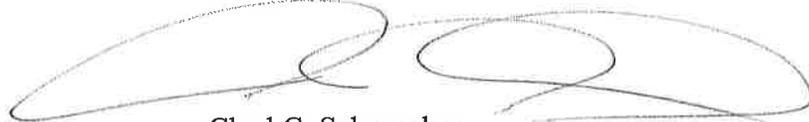
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retirement plan.

Michigan's age 70 restriction has been in place for many years. I believe the longevity of adults is much longer now than it was when the restriction was initially put in place, so a good case can be made that this restriction should be reconsidered. I would ask that the committee also consider that most judicial elections in Michigan are uncontested and the procedure for forcibly removing a judge who has stayed on the bench too long is lengthy and expensive. Judicial terms are six years for the trial judges and the court of appeals, and eight years for the Michigan Supreme Court justices. It may be difficult for anyone to predict if a person will still be able to handle the job five or seven years into the future. I would suggest that the committee may want to consider raising the mandatory retirement age as opposed to eliminating it completely.

Thank you for considering my comments. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad C. Schmucker". The signature is fluid and cursive, with a large loop at the end.

Chad C. Schmucker