



**House
Legislative
Analysis
Section**

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RETIREMENT FOR INCAPACITATED JUDGES

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House Bill 4593 as enrolled
Second Analysis (7-2-87)

Sponsor: Rep. Debbie Stabenow
House Committee: Judiciary
Senate Committee: Judiciary

THE APPARENT PROBLEM:

In order to qualify for a disability retirement, a judge must either have eight years of service credit, or be at least 65 years of age and have six years of service credit. Someone with eight years' service qualifies for a regular retirement annuity of 50 percent of final salary. Someone with six or seven years' service who has reached 65 may receive a prorated annuity calculated using a formula that provides 37.5 percent of final salary for someone with six years' service and 43.75 percent for someone with seven years' service. Judges may choose a survivor benefit plan instead of the straight life annuity that terminates upon the retiree's death.

These provisions leave uncompensated a judge who has served for seven years but has not reached retirement age. A judge who has served seven years and then becomes disabled may merit a disability retirement, and many believe that the law should be changed to accommodate such a situation.

THE CONTENT OF THE BILL:

The bill would amend the Judges' Retirement Act to provide for the disability retirement of a member with seven or more years of service, irrespective of age. The bill would apply for the period from July 1, 1987 to June 30, 1988 only. Upon written application of a retirement system member, the chair of the judicial tenure commission, or the chief justice of the Supreme Court, a member who had seven or more years of service credit and became physically or mentally totally and permanently incapacitated to perform his or her judicial duties would be retired if a medical examination confirmed the disability. The retiree would receive a pension or survivor's benefit reduced by one-eighth of the amount that would otherwise apply, meaning that the retiree would receive 50 percent of salary, reduced by one-eighth.

MCL 38.816

FISCAL IMPLICATIONS:

The Bureau of Retirement Systems in the Department of Management and Budget says that the bill would have minimal fiscal implications. (7-2-87)

ARGUMENTS:

For:

The bill would allow a judge under 65 years old who becomes incapacitated to retire on reasonable benefits after seven years of service, rather than the current minimum of eight. It would thus remove from the law a disincentive to postpone retirement until after the eight years were served, and simultaneously provide compassionate treatment to judges who might need to retire before that time.

Against:

Many judges believe that the bill would do better to reduce the minimum term of service further or do away with it altogether. A minimum period of six years would be the same length of time as a lower court judicial term; thus, adopting six years as the vestment requirement would remove a disabled judge's incentive to run for reelection. Even better would be to provide for some sort of retirement annuity upon incapacitation regardless of the time served on the bench, and thereby encourage any judge who becomes too ill to perform his or her duties to retire.

H.B. 4593 (7-2-87)