

Act No. 83  
Public Acts of 1988  
Approved by the Governor  
March 28, 1988  
Filed with the Secretary of State  
March 29, 1988

**STATE OF MICHIGAN  
84TH LEGISLATURE  
REGULAR SESSION OF 1988**

Introduced by Reps. Richard A. Young, Griffin and O'Neill

# **ENROLLED HOUSE BILL No. 5034**

AN ACT to amend sections 10, 11, and 18 of Act No. 198 of the Public Acts of 1951, entitled as amended "An act to provide for a retirement system for judges, the constitutional court administrator, and certain elected and appointed state officials; to provide for the retirement of judges, the constitutional court administrator, and certain elected and appointed state officials due to age or disability; to provide for the payment of annuities; to create a retirement board and prescribe its powers and duties; to establish certain funds in connection with the system; to provide for the funding of the system; to provide for contributions to the system by judges, the constitutional court administrator, and certain elected and appointed state officials and by the state; and to prescribe penalties," section 11 as amended by Act No. 208 of the Public Acts of 1984 and section 18 as amended by Act No. 172 of the Public Acts of 1987, being sections 38.810, 38.811, and 38.818 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 10, 11, and 18 of Act No. 198 of the Public Acts of 1951, section 11 as amended by Act No. 208 of the Public Acts of 1984 and section 18 as amended by Act No. 172 of the Public Acts of 1987, being sections 38.810, 38.811, and 38.818 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 10. (1) The board shall credit each member with the number of years and months of service to which the member is entitled. The board shall allow service credit for the month in which a member's retirement becomes effective notwithstanding that the member retires from service before the end of the month, but with the provisions that the member retires from service after the fifteenth of the month. In no other case shall the board allow service credit for any month for which a member receives less than 1 month's salary nor shall more than 1 month of service be credited for all service rendered in a calendar month. However, for service performed during the period from January 1, 1982 through June 1, 1983 by a judge of the district court of the thirty-sixth district which is creditable service pursuant to section 13b, the board shall grant service credit for each calendar month in which service was performed prorated on the basis of actual service rendered in a calendar month for which prorated salary was received. After a member attains age 70 years, service shall not be credited to the member beyond the end of the judicial term in which the member attains age 70 years. A person who is a member by reason of being constitutional court administrator, governor, lieutenant governor, secretary of state, attorney general, or legislative auditor general, or as a former elected state official who had received an annual state salary for service performed in the elected state office during the period for which credit is being claimed, shall not receive credit for service performed before the date of membership in the retirement system

until the member pays into the annuity savings fund an amount equal to the amount the member's accumulated contributions would have been had the member been a member and until the member relinquishes for himself or herself and the member's beneficiaries, all rights in and to a pension or annuity for the same period of service claimed payable from funds appropriated by a public supported retirement system. The accumulated contributions paid into the annuity savings fund for those years of prior service performed shall be 7% of the state salary paid to circuit court judges during those years of prior service for which credit is applied. For a person who is a member by reason of being governor, lieutenant governor, secretary of state, attorney general, or legislative auditor general, the accumulated contributions paid into the annuity savings fund for those years of prior service performed shall be 7% of the state salary paid to the person serving in the position during those years of prior service for which credit is applied.

(2) Contributions shall not be based on salary of less than \$10,000.00 per year. A member, the member's spouse, or the member's heirs may elect on forms furnished by the board to apply the member's years of prior service at the time necessary to apply prior service to establish eligibility in the system. If the member does not pay in the sum as required in this section, the board shall place as a charge against the first moneys payable under the system to the member, the member's spouse, or the member's heirs a sum equal to the amount the member would have been required to pay, plus interest at 3% per annum on same from the first day of the year of prior service. The years of prior service performed shall be credited from the earliest to the latest until the necessary credit for service required is met.

Sec. 11. (1) Beginning January 1, 1983, all duly elected or appointed judges shall become members of this system unless within 30 days from taking office a written notice not to participate in the retirement system is filed with the board. In the case of an eligible probate judge serving in a single county of less than 15,000 population, the deadline for filing a written notice not to participate in the retirement system shall be 30 days from taking office, or 90 days after July 9, 1984, whichever is later. Upon becoming a member an agreement and a membership form shall be executed on forms furnished by the board and forwarded within 30 days to the retirement system. In the case of the constitutional court administrator, the agreement shall be executed within 30 days after the date of the administrator's appointment to the position of court administrator. In the case of the governor, lieutenant governor, secretary of state, attorney general, or legislative auditor general, the agreement shall be executed before August 12, 1978, or within 30 days after the commencement of official duties, whichever is later. The agreement shall continue in full force and effect as long as the person remains a judge. The agreement shall include as a provision that the member agrees that in the event of adjudication of mental incompetency of the member, a guardian who may be appointed shall have the power and authority for the purposes of this act to complete and execute the forms required to retire the member according to this act. If a judge elects not to become a member, the judge shall not again have the right to become a member. In all cases of doubt, the board shall decide the membership status of a judge as defined in section 2(b). The decision, in the absence of bad faith, shall be conclusive.

(2) A judge who, at the time he or she began his or her official duties, was not eligible to become a member because he or she had attained age 60 years, shall become a member unless a written notice not to participate is filed with the board within 60 days following December 31, 1982. A judge who becomes a member pursuant to this subsection shall be eligible for retirement with benefits as provided in section 13a or 14(7).

(3) A person who is a member as a result of holding the office of governor, lieutenant governor, secretary of state, attorney general, or legislative auditor general and who was holding that office on July 12, 1978, may elect to receive an annuity in accordance with section 14 for an amount equal to or less than the computed benefit or to receive an annuity computed under the state employee's retirement system pursuant to Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.47 of the Michigan Compiled Laws.

Sec. 18. (1) If a beneficiary who retired under the provisions of this act is again elected as a judge in any court, payment of his or her annuity shall be suspended for the period during which such judicial duties are being performed.

(2) Unless a judge elects not to become a member pursuant to section 11, a person who retired under this act and who is again elected as a judge shall have his or her annuity recalculated to reflect the additional service performed as a judge if he or she serves not less than 1 full term in the office to which he or she was elected except as provided in section 16 or section 19c. An annuity recalculated pursuant to this subsection is subject to section 14. A person who again retires and is eligible to have his or her annuity recalculated pursuant to this subsection shall begin receiving the recalculated annuity effective the first of the month following the month in which the person leaves judicial service.

Section 2. This amendatory act shall take effect April 1, 1988.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved .....

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Governor.