

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4031 (Substitute S-1 as reported)  
Sponsor: Representative John D. Pridnia  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 10-29-90

**RATIONALE**

The Judges' Retirement Act permits members of the Judges' Retirement System to purchase credit for service as a municipal judge, a justice of the peace, a probate judge, or a judge or referee in various local courts. Some people feel that members should also be allowed to purchase credit for service performed in the quasi-judicial positions of coroner and circuit court commissioner, both of which have been abolished. In addition, the Act allows certain members to purchase credit for active-duty military service, and some feel that the same privilege should be granted to those who have served in the Reserves or the National Guard. Further, some contend that the Act's service credit buy-ins should be purchased at actuarial costs, rather than the formula-driven rates now specified in statute.

**CONTENT**

The bill would amend the Judges' Retirement Act to allow a judge to purchase credit for service as a coroner or a circuit court commissioner. A judge who chose to receive the credit could use it to the same extent that the service would have been credited had it been rendered in a position covered under the Act, and subject to contribution amounts determined by using formulas specified in the Act. Beginning January 1, 1992, however, any member who purchased credit under the Act for service as a municipal judge, a justice of the peace, a coroner, a circuit court commissioner, a probate judge, or a judge or referee in various local courts would have to pay into the retirement system's Annuity Savings Fund an amount

determined by the retirement board and the Department of Management and Budget to be the actuarial cost of purchasing the credit.

In addition, the bill would remove the phrase "on active duty" from the provisions in the Act allowing a member to purchase service credit for time served in the military. The bill would retain the requirement that a member entitled to purchase such credit first accumulate 12 years of credited service, and would retain the two-year maximum of allowable military service credit.

MCL 38.813b

**SENATE COMMITTEE ACTION**

The Senate Judiciary Committee adopted a substitute (S-1) to the bill that would extend the purchase of credit option for service as a circuit court commissioner and for non-active military duty. The House-passed version of the bill would have allowed the purchase of credit only for service as a coroner. In addition, the Senate substitute would allow service credit to be purchased according to the current statutory formulas until January 1, 1992. After that date, any credit purchased under the Act would have to be bought at actuarial cost. Under the House-passed version, credit purchased for service as a coroner would have to be purchased at the actuarial cost and all other allowable service credit could be purchased according to the Act's formulas until January 1, 1991, after which all service credit buy-ins would have to be purchased at their actuarial cost.

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## **FISCAL IMPACT**

The State actuary estimates that there would be clear fiscal advantages to the Judges' Retirement System with the "buy-in" requirement since the system would not accrue additional unfunded liabilities.

## **ARGUMENTS**

### **Supporting Argument**

In the past, coroners performed a number of judicial functions, including issuing subpoenas, summoning and swearing in jurors for coroners' inquests, presiding over inquests, and instructing inquest juries. It is unfair that a judge with experience as a coroner cannot purchase retirement service credit for that time, when other judges who were justices of the peace or traffic court referees may purchase credit for service in those positions. The bill would remedy this situation by allowing a judge to purchase credit for his or her tenure as a coroner.

**Response:** A coroner's basic role was investigative, not judicial; presumably, this is the reason coroner service has not been listed among the situations for which a judge may purchase service credit for judicial retirement.

### **Supporting Argument**

Under the judicial structure that was in effect in Michigan prior to reforms mandated by the 1963 Constitution, circuit court commissioners performed many of the same duties that now fall under the jurisdiction of the district court. Article VI, Section 26 of the Constitution abolished the office of circuit court commissioner, effective after the expiration of five years. Subsequently, Public Act 154 of 1968 created the district court and provides that "duties and powers which by law may be performed by justices of the peace, circuit court commissioners, judges of municipal courts, judges of police courts and judges of the recorders court of Cadillac shall be performed after December 31, 1968 by the district court" (MCL 600.9922). Judges now can purchase credit in their retirement system for service in each of those positions except circuit court commissioner. The bill would correct this inequity.

### **Supporting Argument**

The bill would improve the fiscal conditions

under which service credit may be purchased by requiring payments to meet the actuarial costs of such buy-ins. Currently, the system as a whole subsidizes the buy-ins, which is unfair to those who do not or cannot use those options. In addition, by postponing the effective date for the new payment schedule until January 1, 1992, the bill would give those now in the judicial retirement system plenty of time to take advantage of the current favorable payment formula.

**Response:** In order to assure that the system is actuarially sound, the bill should require immediately that service credit be purchased at actuarial cost.

### **Supporting Argument**

By allowing members to purchase credit for non-active military duty, the bill would treat all military service equitably.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.