



**House
Legislative
Analysis
Section**

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JUDGES RETIREMENT: BUY-INS

**House Bill 5174 (Substitute H-2)
First Analysis (1-30-92)**

**Sponsor: Rep. Vincent J. Porreca
Committee: Judiciary**

THE APPARENT PROBLEM:

Public Act 334 of 1990 (enrolled House Bill 4031) extended to former coroners and circuit court commissioners the opportunity to purchase service credit under the Judges' Retirement Act for time spent in those now-abolished quasi-judicial positions. Such "buy-ins" were already allowed for time spent as a municipal judge, a justice of the peace, or as a probate judge. Also already authorized were buy-ins for time spent as a judge or referee in certain now-abolished local courts, including as a judge of the police court of Grand Rapids or the recorder's court of Cadillac, and as a referee of the traffic division of the Detroit recorder's court. In response to concerns about burdens to the Judges' Retirement System if judges were to continue to be allowed to purchase service credit at special rates, Public Act 334 also required that these buy-ins meet actuarial costs, commencing January 1, 1992. There continue to be other areas of quasi-judicial employment that are not yet included in the buy-in provisions: employment as a juvenile court referee or friend of the court referee, or as a district court magistrate. It has been proposed that such prior service be eligible for purchase of up to two years' worth of service credit at actuarial rates.

The Judges' Retirement Act also authorizes a buy-in for up to two years of active-duty military service for judges who have served at least 12 years on the bench. That buy-in continues to be at a special rate, no doubt as a reflection of the societal value of military service. However, the buy-in remains out of reach for a judge who has not yet spent twelve years in office. This requirement has proved an insurmountable impediment for at least one judge who first gained the bench five years ago at age 63, and will be ineligible to run again in the next election in 1996 because he will be over the constitutional age limit of age 70. It has been proposed that the law be amended to allow this judge to purchase credit for military service.

THE CONTENT OF THE BILL:

The bill would amend the Judges' Retirement Act to do the following:

**** allow a member to purchase service credit at actuarial cost for up to two years' worth of time spent as a juvenile court or friend of the court referee or as a district court magistrate, or both.**

**** allow a member to purchase up to two years' worth of service credit for time spent on active duty in military service if the member was at least 60 years old and had accumulated at least ten years of service as a judge. This option would be in addition to the current option that allows a member, regardless of age, to purchase up to two years' worth of active duty military service if he or she had spent 12 years on the bench. The price for either would continue to be five percent of the member's salary paid by the state for the year in which payment was made multiplied by the years and months of service that the member elected to purchase, up to the maximum of two years.**

MCL 38.813b

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the proposed buy-in provisions for referees and magistrates would be cost-neutral, while the proposal for military service buy-ins would present costs for the state, the amount of which would depend on the number of judges who became eligible and opted for the buy-in. (1-29-92)

ARGUMENTS:

For:

The bill would build greater fairness into the buy-in provisions of the Judges' Retirement Act. There is no good reason to deny purchase of service for time spent as a juvenile court referee or district court magistrate when time spent as coroner or circuit

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court commissioner is eligible. Referees and magistrates perform duties that are at least as judicial as those performed under some of the other positions now eligible for buy-ins. Further, it seems unfair that a person who risked his or her life to preserve American freedoms should be denied the military service buy-in because of the age barrier to running for reelection to judicial office; the unfairness is underscored when one considers that other state retirement systems allow military buy-ins upon ten years or less of time spent in eligible employment. The bill would rectify these inequities with little or no cost to the Judges' Retirement System or the state: referee and magistrate buy-ins would be at actuarial costs, while the proposal for military buy-in, which would be at the special rate now applying to other military buy-ins, is narrowly tailored to ensure that only a very few judges (and perhaps only one) will qualify for it.

Against:

Retirement benefits for a judge who has spent 12 years on the bench are substantially higher than those for someone who has not reached that threshold. By allowing a member to purchase two years of military service credit upon 10 years of judicial service, the bill would increase benefits for that member by about 20 percent. The net cost to the retirement system for that member would increase significantly. Moreover, it is not clear exactly how many judges now and in the future might qualify for the new military buy-in, thus further increasing the potential costs for the system. Even though that number might be relatively few, it is unsound policy to increase subsidized buy-ins beyond what exists now.

POSITIONS:

The Retirement Bureau in the Department of Management and Budget does not oppose buy-ins at actuarial cost for time spent as a referee or magistrate, but opposes allowing a military buy-in at age 60 with ten years of judicial service. (1-28-92)