



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 524 (Substitute S-1 as reported)
Sponsor: Senator Bruce Patterson
Committee: Judiciary

(as passed by the Senate)

Date Completed: 12-7-07

RATIONALE

Under the Judges Retirement Act, the retirement allowance for a retired district judge who has less than 12 years of credited service is 3% of his or her final compensation multiplied by his or her years of credited service. If the retired judge has 12 or more years of credited service, the retirement allowance is 50% of his or her final compensation plus 2.5% of final compensation multiplied by the number of years of credited service in excess of 12 years. In addition, the Act allows a member who has 12 or more years of credited service to purchase up to two years of service credit for active duty in the U.S. Armed Forces.

At least one retired judge in Michigan who otherwise would have qualified to purchase the active military duty service credit was unable to do so because, after serving 10 years on the bench, he was constitutionally prohibited from seeking another term due to age. (Article VI, Section 19(3) of the State Constitution provides: "No person shall be elected or appointed to a judicial office after reaching the age of 70 years.") With 10 years of credited service, the retired judge's pension payment is 30% of his final compensation. If he had received two years of service credit for military duty, however, his retirement allowance would be 50% of his final compensation. It has been suggested that a 67% annual supplement be awarded to a judge under these circumstances.

CONTENT

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

-- Provide for an annual 67% supplement for a retirant or

beneficiary of a deceased retirant under Tier 1 if the retirant could not purchase service credit for military service because he or she had been prevented from accumulating 12 years of credited service due to the mandatory retirement age for judges.

- Provide that the recalculated retirement allowance would be the basis for the calculation of future adjustments; the Act's final compensation limits would not apply to the retirement allowance supplement; and, for a retirant or beneficiary receiving more than one retirement allowance, the supplement could be received only on the largest allowance.**
- Specify that, if a retirant died before the end of 2007, and benefits did not otherwise become payable to a beneficiary, his or her retirement allowance could not be supplemented under the bill.**

("Tier 1" is the Judges Retirement System's defined benefit program. The system's defined contribution system is known as "Tier 2".)

Military Service Credit Annual Supplement

Under the bill, effective July 1, 2007, the retirement allowance payable to a retirant or beneficiary of a deceased retirant under Tier 1 would be supplemented by 67% if all of the following applied to that retirant:

- He or she potentially was eligible to purchase two years' service credit under the Act, the former Judges Retirement System, or the former Probate Judges Retirement System, because he or she

served honorably on active duty as a member of the U.S. Armed Forces.

- He or she was unable to purchase the military service credit while a member because he or she had not accumulated 12 years of credited service.
- He or she was older than 60 years of age when entering the system and was prevented from accumulating 12 years of credited service by the mandatory retirement age for judges specified in the State Constitution.

The supplement would have to be paid annually.

Application of the Supplement

The recalculated retirement allowance under the bill would be the basis on which future adjustments to the retirement allowance were calculated. The percentage of final compensation limits of Section 503 of the Act would not apply to the increase authorized by the bill. (Section 503 establishes the formulas for determining a retirant's retirement allowance, and includes maximum limits on that allowance expressed as a percentage of the retirant's final compensation.)

For a retirant or beneficiary of a deceased retirant who was eligible to receive the supplement, who was receiving a retirement allowance pursuant to service credited under the former Judges Retirement System, and who was receiving a retirement allowance pursuant to service credited under the former Probate Judges Retirement System, the retirement system could supplement only the largest retirement allowance.

If a retirant died before December 31, 2007, and no benefits became payable under Section 506 or 508 of the Act, the retirant's retirement allowance could not be supplemented under the bill. (Sections 506 and 508 allow a member or vested former member to elect to receive a retirement allowance for life or receive for life a smaller allowance that is continued to a beneficiary upon the retirant's death.)

Proposed MCL 38.2514

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

A retired judge who served on the 33rd District Court bench in Flat Rock, Michigan, began his tenure as a judge at 63 years of age. He filled a judicial vacancy by serving four years of an unexpired term, then was elected to a full six-year term as district judge. After serving 10 years, he was over the age of 70 and constitutionally prohibited from being elected again. Although he is a World War II veteran, the judge was not allowed to purchase two years of credit for his military service because the Judges Retirement Act allows that service credit only if a member of the retirement system has 12 years of service.

With 10 years of service credit, the judge receives a retirement allowance of 30% of his final compensation (3% per year times 10 years). If he had been credited with two years for his military service, however, the judge would have qualified for a 50% retirement allowance for 12 years' credited service. By awarding a 67% annual supplement to a judge under the circumstances described above, the bill essentially would increase the judge's retirement allowance from 30% to 50% of final compensation. Although the retired judge from Flat Rock may be the only judicial retiree who would qualify for this limited supplemental benefit, if other retirants met the criteria, they or their beneficiaries also could be appropriately compensated for their military and judicial service.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

It is estimated that only one person would be eligible to receive the 67% annual pension supplement proposed by the bill, and that this pension adjustment would cost \$15,000 per year. Whether the retirement rate otherwise charged to the judiciary would be affected based on this single adjustment would depend upon the value of the assets in the Judges Retirement System and how much the system is "overfunded". Likely, since this would be an adjustment to only one judge's pension, any impact would be minimal.

Fiscal Analyst: Kathryn Summers-Coty

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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.