



House Concurrent Resolution 10 (as discharged)
Sponsor: Representative Graham Filler
House Committee: Judiciary
Senate Committee: Appropriations (discharged)

CONTENT

House Concurrent Resolution 10 would adopt the recommendations of the State Officers Compensation Commission (SOCC) of May 30, 2019, to increase the salaries of the Michigan Supreme Court Justices by 5.0% for 2021 and 2022, and to leave the salaries for the other State Officers, including the salary levels for the members of the Legislature, Governor, Lieutenant Governor, Attorney General, and the Secretary of State, unchanged.

BACKGROUND

The Justices of the Michigan Supreme Court have not had a salary increase in twenty years. Until 2016, lower court judges' salaries (including those in the Court of Appeals, circuit courts, district courts, and probate courts) were tied to the salaries of the Supreme Court Justices, which ensured that they did not exceed the Justices' salaries. That changed with Public Act 31 of 2016, which allowed for lower court judges to receive annual percentage pay increases paid to nonexclusively represented employees (NEREs) classified as executives and administrators as of January 1, 2016. Since then, the salary of a Court of Appeals judge has continued to grow each year while Supreme Court Justice Salaries have remained unchanged. As of the start of fiscal year 2020-21, the salary for a Court of Appeals judge, at \$167,187, now exceeds that of the salary for a Supreme Court Justice at \$164,610.

Article IV, Section 12 of the Michigan Constitution created the SOCC, which makes biennial recommendations for the salaries and expense allowances of the "members of the legislature, the governor, the lieutenant governor, the attorney general, the secretary of state, and the justices of the supreme court". The SOCC salary determinations take effect only if the Legislature approves them by a concurrent resolution adopted by a majority vote of each house. The latest SOCC recommendations were received by the Legislature on May 30, 2019, and they included a recommendation for a 5.0% pay increase for the Supreme Court Justices for 2021 and 2022. The Michigan House of Representatives adopted and transmitted House Concurrent Resolution 10 (HCR 10) to the Michigan Senate on December 11, 2019.

Although the recommendation by the SOCC for the salary increase was intended to go into effect for 2021 and 2022, the timing of HCR 10's passage and the language of Article IV, Section 12 may prevent the increase from occurring during those years. That language says, "[i]f the salary and expense determinations are approved...the salary and expense determinations shall become effective for the legislative session immediately following the next general election". Because the next general election will not occur until November 2022 (see Article II, Section 5), the recommended salary increases may not go into effect until the 102nd legislative session, which will start in 2023, if at all. It is unclear, given that the language of the SOCC recommendation specifically identifies 2021 and 2022, whether the salary increase will be delayed in its implementation because of Article IV, Section 12.

FISCAL IMPACT

The concurrent resolution would have a minimal, negative fiscal impact on the State and no fiscal impact on local governments, most likely for FY 2022-23 and FY 2023-24. A 5.0% salary increase for seven Justice positions over two years would amount to an additional \$118,108 in General Fund spending for those salaries. Including FICA taxes and retirement costs, the total increase in spending over those two years would be \$127,710.00, a fraction of a percentage increase in spending for the Judiciary budget.

Date Completed: 12-18-20

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