

Legislative Analysis



INCREASE AGE LIMIT FOR JUDGES

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<http://www.house.mi.gov/hfa>

House Joint Resolution S (as introduced)

Sponsor: Rep. Hank Vaupel

Committee: Elections

Complete to 3-2-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Joint Resolution S would amend Article VI, Section 19 of the Michigan Constitution of 1963 to raise the age limitation for eligibility for election or appointment to a judicial office from age 70 to 75. The resolution would require voter approval at the next general election. A general election is held in November of an even-numbered year.

Now, the following requirements exist for judges and justices in Michigan:

- For justices of the Michigan Supreme Court, or judges on the court of appeals, circuit court, probate court, and other courts, one must be licensed to practice law in the state.
- For justices of the supreme court or judges on a trial court or the court of appeals, one must have been admitted to practice law for at least five years. This provision was added to the Michigan Constitution by Senate Joint Resolution D (Proposal B), which the voters approved with 81% of the vote in 1996.¹
- For all judicial offices, one may not be elected or appointed after reaching age 70.

House Joint Resolution S would amend the final requirement to raise the eligibility for election or appointment to age 75.

The resolution would require voter approval at the next general election, which would be November 8, 2016.

This joint resolution is similar to Senate Joint Resolution J, which was referred from committee to the full Senate June 3, 2015. That joint resolution would remove the age requirement completely, which would allow judges and justices to serve for as long as they choose and win reelection.

BACKGROUND INFORMATION:

Thirty-three states and the District of Columbia have mandatory retirement ages. Michigan is currently one of 18 states which require retirement once a judge or justice has reached age 70. Four states have a limit of 72, Washington D.C. has a limit of 74, five have a limit of 75, and Vermont allows judges to finish out the year they turn 90. Some of these states

¹ <http://uselectionatlas.org/RESULTS/state.php?fips=26&year=1996&f=0&off=51&elect=0>

require a judge to retire as soon as reaching the age in question, and some forbid a judge to run or be appointed upon reaching that age (as is the case in Michigan).

Since 2011, Hawaii,² New York,³ and Ohio⁴ have sought to raise their judicial age limits from 70 to 80, 80, and 76, respectively. In 2014, Louisiana sought to remove the age limit of 70 entirely.⁵ All of the initiatives were rejected by the voters of those states.

Recently a lawsuit has been filed challenging the state's ban on judges over 70 seeking reelection. In the 2014 election, 24 Michigan judges were unable to seek reelection due to the age restriction, according to a news article citing the Michigan Supreme Court.⁶

FISCAL IMPACT:

HJR S would have an indeterminate, but likely minimal, fiscal impact on the state and on local units of government. Judges remaining on the bench for an additional five years would not cost the state additional money. The retiring judge would likely be replaced, and the replacement judge would be paid the same salary amount as the retiring judge. The fiscal impact would occur if the judgeship was slated for elimination upon the retirement of the judge and the sitting judge decided to run for reelection past his or her 70th birthday. In this case of postponing the judgeship elimination, savings that would have been realized by the state from not having to pay the salary, and savings that would have been realized by the local units from not having to pay fringe benefit and staff costs, would also be postponed.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

² <http://elections2.hawaii.gov/files/results/2014/general/histatewide.pdf>

³ <http://www.elections.ny.gov/NYSBOE/elections/2013/proposals/2013GeneralElection-Prop6.pdf>

⁴ <http://www.sos.state.oh.us/SOS/elections/Research/electResultsMain/2011results/20111108Issue1.aspx>

⁵ http://staticresults.sos.la.gov/11042014/11042014_Statewide.html

⁶ <http://www.lansingstatejournal.com/story/news/local/2016/02/18/judge-files-lawsuit-over-discriminatory-age-restrictions/80455614/>