

ELIMINATE AGE LIMIT FOR JUDGES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Joint Resolution G as introduced

Sponsor: Rep. Hank Vaupel

Committee: Judiciary

Complete to 2-21-17

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

SUMMARY:

House Joint Resolution G would amend Article VI, Section 19 of the Michigan Constitution of 1963 to eliminate the age limitation for eligibility for election or appointment to a judicial office; currently, judges cannot seek reelection once they reach 70 years of age. 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 G would amend the final requirement to eliminate the restriction on eligibility for election or appointment based on age.

The resolution would require voter approval at the next general election, which would be November 6, 2018.

BACKGROUND INFORMATION:

According to the State Court Administrative Office, 94 incumbent judges will be ineligible to run for reelection when their current terms expire due to the current age restriction.

At least 16 states have no age retirement for judges, though most do. Michigan is currently one of 18 states which require retirement once a judge or justice has reached age 70. Some of the states with mandatory retirement ages require a judge to retire as soon as reaching

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

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

Recently, the Michigan Supreme Court declined to hear a lawsuit filed challenging the state's ban on judges over 70 seeking reelection; the case had previously been dismissed by the Court of Claims.

FISCAL IMPACT:

HJR G would have an indeterminate, but likely minimal, fiscal impact on the state and on local units of government. Judges remaining on the bench past age 70 would not cost the state additional money because 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.

Legislative Analyst: Susan Stutzky
Jennifer McInerney
Fiscal Analyst: Robin Risko

■ 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.