

Legislative Analysis



INCREASE AGE LIMIT FOR JUDGES

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

House Joint Resolution Q as introduced

Sponsor: Rep. Sue Allor

Committee: Judiciary

Complete to 4-25-22

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

SUMMARY:

House Joint Resolution Q would amend section 19 of Article VI of the State Constitution of 1963 to increase the age limitation on eligibility for election or appointment to a judicial office. Currently, judges cannot be appointed or seek reelection once they reach 70 years of age (though they can serve the balance of the current term). The bill would increase that age to 80.

The following requirements currently apply to judges and justices in Michigan:

- Justices of the Michigan Supreme Court and judges on the Court of Appeals, circuit court, probate court, and other courts designated as courts of record by the legislature must be licensed to practice law in the state.
- Justices of the Michigan Supreme Court and judges on the Court of Appeals or a trial court must have been admitted to practice law for at least five years.¹
- No person may be elected or appointed to any judicial office after reaching age 70.

HJR Q would amend the third requirement above to increase the age limitation on eligibility for election or appointment from 70 to 80.

If adopted by a 2/3 vote of each house of the legislature, the resolution would require voter approval at the next general election to become a part of the state constitution. (A general election is held in November of an even-numbered year. The next general election will be November 8, 2022.)

BACKGROUND:

According to the National Center for State Courts, 32 states plus the District of Columbia had a mandatory judicial retirement age in 2016.² Michigan is currently one of at least 18 states that require retirement once a judge or justice has reached age 70. Some of the states with a mandatory retirement age require a judge to retire upon reaching that age, while others (including Michigan) allow judges to finish the term in which they reach the limit age but prohibit them from serving on the bench after that.

In 2016, 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. In addition, in 2018, the Sixth Circuit of the U.S. Court of Appeals upheld a 2017 dismissal of a challenge to the age limit by federal district court.

¹ This provision was added to the constitution by Proposal B (SJR D), approved by voters in 1996.

² <https://cdm16501.contentdm.oclc.org/digital/collection/judicial/id/440>.

FISCAL IMPACT:

House Joint Resolution Q 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 80 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. 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 local court units from not having to pay fringe benefit and staff costs, would also be postponed.

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Robin Risko

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