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JUDGES' RETIREMENT

Senate Bill 605 with House
committee amendments

Sponsor: Rep. William Van Regenmorter

Senate Committee: Judiciary

House Committee: Family and Civil Law

Complete to 12-7-99

A SUMMARY OF SENATE BILL 605 WITH HOUSE COMMITTEE AMENDMENTS

According to information supplied by the Senate Fiscal Agency, on June 30, 1998, the plaintiffs in *Michigan Judges Association v Treasurer of the State of Michigan* obtained a temporary restraining order in the United States District Court against the State of Michigan enjoining the state from implementing any election (transfer) from defined benefit to defined contribution retirement and from enforcing the irrevocable date of midnight June 30, 1998, against any circuit, district, or probate judge. The temporary restraining order was based on alleged irreparable harm to the judges resulting from implementation of an irrevocable date (June 30, 1998) concerning the plaintiffs' election among pension plans in the absence of adequate notice or a meaningful opportunity to be heard.

On February 18, 1999, the United States District Court entered a stipulated order regarding the temporary restraining order that provides:

1) "Defendants having consented and the parties having agreed, those Judges of the Michigan Circuit Courts, Probate Courts or District Courts who have made elections to transfer to the Defined Contribution plan pursuant to the Judges Retirement Act of 1992, 1992 Public Act 234, as amended, but have not been able to have the elections implemented by reason of the Restraining Order entered in this case, and have retired on or after the Effective Date of the Restraining Order, or hereafter retire, may receive a retirement benefit under the Defined Benefit plan upon their retirement based on service as of a retirement date of June 30, 1998."

2) "If the Internal Revenue Service makes a determination that judges referred to in paragraph 1 above are qualified to participate in the Defined Contribution plan, and the Defendants are not precluded from implementing the Defined Contribution plan by action of this Court or by another other court of competent jurisdiction, the Judges Retirement System shall transfer to the Defined Contribution plan for each qualified retired judge the actuarial present value ("APV") of his or her retirement account, as provided by 1992 PA 234, as amended, less any retirement amounts already received by each judge pursuant to paragraph 1 above, with interest credited at a rate of 8% per annum on this amount to be transferred from the date each judge would have otherwise become a qualified participant in the Defined Contribution plan pursuant to 1992 PA 234, as amended, had said Restraining Order not been in effect."

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- 3) "Those judges who retired prior to the Effective Date of the Restraining Order in this matter shall be deemed to be former judges for purposes of said Restraining Order and, as such, the Judges Retirement System may implement an election made by said former judges to transfer to the Defined Contribution plan, pursuant to the requirements of 1992 PA 234, as amended, as long as the State Treasurer determines that said former judges are qualified under the rules and regulations of the Internal Revenue Service to participate in the Defined Contribution plan. To the extent that the State Treasurer determines that an individual judge described herein is not qualified to participate in the Defined Contribution plan, such judge may receive a benefit from the Defined Benefit plan based on their actual date of retirement, and if such judge is later determined to be eligible for the Defined Contribution plan, then such judge may have his or her APV transferred to the Defined Contribution plan under the same terms as paragraph 2."
- 4) "For purposes of this Order, the term 'effective date' shall be deemed to be June 30, 1998."
- 5) "Except as specifically provided herein the terms of the Restraining Order entered on June 30, 1998 and the Stipulated Orders Regarding Temporary Restraining Order and Pleading, entered on July 9, 1998, and July 22, 1998, shall continue to be in full force and effect in accordance with their terms."

Senate Bill 605 would amend the Judges' Retirement Act to do the following:

- Provide another window for Judges' Retirement System members (members on March 30, 1997) to elect to become a qualified participant in Tier 2 (the defined contribution plan). This opportunity would be available only to circuit, probate, and district court judges who have not previously filed to transfer to Tier 2. The individual judge would have the option of electing either June 30, 1998 or December 31, 1998 as the date for determining the actuarial present value transferred to Tier 2.
- Allow certain members who terminated employment or retired prior to the new 60-day window to elect to become a qualified participant in Tier 2.
- Require members electing to become qualified participants in Tier 2 also to elect either to have 100 percent of their salary that is paid both directly and indirectly by the state considered the Tier 2 salary, or to have the compensation under Tier 1 on the day before the election considered the Tier 2 salary. The election would be irrevocable. Members who did not make an election regarding salary would be considered to have selected the salary under Tier 1. The amount of compensation not included for purposes of defined contribution remains eligible for participation in a local retirement plan. Members who selected 100 percent of state direct and indirect salary would be prohibited from participating in any other public sector retirement benefit plan for simultaneous service rendered to the same public sector employer.
- Allow qualified participants and the employer (state) to make additional contributions to a participant's Tier 2 account for a period that equaled the time in which a Tier 1 member was not able to make contributions to the Tier 2 plan due to the temporary restraining order.

- Allow trial court judges to convert the balance of the difference between the state base salary and the maximum statutory salary for the purpose of computing their retirement allowance. Members electing to convert the balance of salary would be required to pay estimated member contributions that would have been paid from January 1, 1999, through the conversion date and the actuarial cost of such benefit for all prior years as of December 31, 1998. The provision would allow the retirement system to accept an amount transferred by a member's local retirement system for payment (full or partial) under this provision. The section also would allow a member to pay balances due through payroll deductions over a period not to exceed 100 pay periods.

- Allow vested members or deferred vested former members to select Option A for their retirement benefits after completing eight years of credited service. Currently, members or deferred vested former members must wait until filing for retirement benefits before making that selection. (Option A allows a retirant to receive a permanently reduced benefit and for the retirant's beneficiary to continue to receive 100 percent of the retirant's reduced benefit for the remainder of the beneficiary's life. If Option A is not selected, the retirant receives only a straight life retirement benefit that ends upon his or her death.)

- Change the payment of benefits in the case of the death of the vested member or vested former member. Should a member with eight or more years of credited service elect Option A and then die while in office, proposed language would allow the member's beneficiary to receive the retirement allowance that he or she would have been entitled to receive under Option A had the member been retired on the date of his or her death. If a vested member or a vested former member died and had not elected Option A, the member's or vested former member's spouse (if any) would receive a retirement allowance as if the member or vested former member had elected Option A and selected his or her spouse as the retirement allowance beneficiary.

- Define employer as the state.

- Clarify the definition of compensation for probate court judges pursuant to the Revised Judicature Act.

- Change the composition of the Michigan Judges Retirement board by replacing the Deputy Legislative Auditor General with one judge appointed by the governor, who would have to be a member of the retirement system.

- Create a separate Medical Benefit Account that would be funded by member contributions. The fund would provide post-retirement medical benefits for eligible judges and their health benefit dependents and post-death medical benefits for health benefit dependents who survived a deceased contributor.

- Create a Medical Benefit Administrative Account funded by a percentage of earnings on member contributions to the Medical Benefit Account to cover administrative costs of maintaining the Medical Benefit Account.

- Define salary as 100 percent of salary paid both directly and indirectly by the state for individuals first elected or appointed on or after March 31, 1997.

- Repeal certain provisions if the settlement agreement in *Michigan Judges Association v Treasurer State of Michigan* is rendered null and void or otherwise terminated.

- Provide that the bill would take effect the same date as the settlement agreement in the *Michigan Judges Association v. Treasurer of the State of Michigan* case takes effect.

MCL 38.2101 et. al

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