

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5857**

A bill to amend 1992 PA 234, entitled
"The judges retirement act of 1992,"
by amending sections 104, 217, 504, 701, 702, 705, 706, and 711
(MCL 38.2104, 38.2217, 38.2504, 38.2651, 38.2652, 38.2655,
38.2656, and 38.2661), section 104 as amended by 1995 PA 193,
section 217 as amended by 1996 PA 525, sections 701 and 702 as
amended by 1998 PA 66, and sections 705, 706, and 711 as added by
1996 PA 523, and by adding sections 701a and 718a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** Sec. 104. (1) "Compensation" means 1 of the following:
2 (a) For a plan 1 member or plan 2 member, the salary paid by
3 this state.
4 (b) For a plan 3 member, the salary paid by this state,
5 except that for a plan 3 member who is a judge of the recorder's
6 court of the city of Detroit, compensation means an amount equal

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1 to the salary paid by this state to a judge of the circuit court
2 and for a plan 3 member who is a judge of the probate court, com-
3 pensation means an amount equal to the salary paid ~~by this state~~
4 ~~to a judge of the district court~~ PURSUANT TO SECTION 821 OF THE
5 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.821. In
6 addition, compensation for a plan 3 member includes salary stan-
7 dardization payments converted as an addition to the state base
8 salary as provided by section 504, if any.

9 (c) For a plan 4 member, the total judicial salary payable
10 from all sources.

11 (d) For a plan 5 member, the total salary paid by this state
12 and the district control unit of the district court in the
13 thirty-sixth district.

14 (e) For a plan 6 or 7 member, the salary approved by the
15 county board of commissioners and includes salary standardization
16 payments made to the member by the county.

17 (2) "County retirement plan" means a county retirement plan
18 established under section 12a of ~~Act No. 156 of the Public Acts~~
19 ~~of 1851, being section 46.12a of the Michigan Compiled Laws~~ 1851
20 PA 156, MCL 46.12A.

21 (3) "Court fees" means a court filing fee or costs earmarked
22 for the retirement system and collected by a county clerk, clerk
23 of the circuit court, or clerk of the district court pursuant to
24 sections 880, 2529, 5756, 8371, 8381, and 8420 of the revised
25 judicature act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~
26 ~~being sections 600.880, 600.2529, 600.5756, 600.8371, 600.8381,~~

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1 ~~and 600.8420 of the Michigan Compiled Laws~~ 1961 PA 236, MCL
2 600.880, 600.2529, 600.5756, 600.8371, 600.8381, AND 600.8420.

3 (4) "Credited service" means all of the following:

4 (a) Service credited to a member under this act, the former
5 judges retirement system, and the former probate judges retire-
6 ment system.

7 (b) Other public service purchased under section 403.

8 (c) Service purchased under section 404.

9 (5) "Department" means the department of management and
10 budget.

11 (6) "Direct rollover" means a payment by the retirement
12 system to the eligible retirement plan specified by the
13 distributee.

14 (7) "Distributee" includes a member or vested former
15 member. Distributee also includes the member's or vested former
16 member's surviving spouse or the member's or vested former
17 member's spouse or former spouse under an eligible domestic rela-
18 tions order, with regard to the interest of the spouse or former
19 spouse.

20 (8) "District control unit" means district control unit as
21 defined in section 8104 of the revised judicature act of 1961,
22 ~~Act No. 236 of the Public Acts of 1961, being section 600.8104~~
23 ~~of the Michigan Compiled Laws~~ 1961 PA 236, MCL 600.8104.

24 Sec. 217. (1) A court fee fund is created in the state
25 treasury. The state treasurer shall deposit into the court fee
26 fund all money received from the executive secretary pursuant to
27 section 304(4). The state treasurer shall transmit the money in

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1 the court fee fund, not exceeding \$2,200,000.00 in any fiscal
2 year, to the court equity fund created by section 151b of the
3 revised judicature act OF 1961, ~~being section 600.151b of the~~
4 ~~Michigan Compiled Laws,~~ 1961 PA 236, MCL 600.151B. IF THE COURT
5 FEE FUND EXCEEDS \$2,200,000.00 IN ANY FISCAL YEAR AND
6 \$2,200,000.00 IS TRANSMITTED TO THE COURT EQUITY FUND, AN AMOUNT
7 MAY BE APPROPRIATED FROM THE COURT FEE FUND for operational
8 expenses of trial courts, FOR EMPLOYER CONTRIBUTIONS REQUIRED
9 UNDER SECTION 714 TO QUALIFIED PARTICIPANTS' TIER 2 ACCOUNTS, OR
10 BOTH. OPERATIONAL EXPENSES MAY INCLUDE THE PAYMENT OF SALARIES
11 OF TRIAL COURT JUDGES OTHER THAN JUDGES OF THE DISTRICT COURT.
12 Any money remaining in the court fee fund at the end of the
13 fiscal year shall remain in the court fee fund and shall not
14 revert to the general fund.

15 (2) This section applies unless the department receives
16 notification from the United States internal revenue service that
17 this section will cause the retirement system to be disqualified
18 for tax purposes under the internal revenue code.

19 Sec. 504. (1) Except as otherwise provided in this subsec-
20 tion, a judge who is a plan 3 member shall convert \$2,250.00 of
21 the state salary standardization payment annually prescribed by
22 law for any state fiscal year beginning after September 30, 1981
23 as an addition to the judge's state base salary for purposes of
24 computation of a retirement allowance under this act. A judge
25 who, within 30 days from taking office, files a written notice
26 not to participate in the provisions of this subsection with the
27 retirement system is exempt from this subsection. A judge who

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1 was serving on December 31, 1982 and who did not elect to convert
2 \$2,250.00 of the state salary standardization payment under sec-
3 tion 14a of former ~~Act No. 198 of the Public Acts of 1951,~~ 1951
4 PA 198 is exempt from this section. For the purposes of the cal-
5 culation of a judge's combined county, city, or district control
6 unit retirement benefit, a judge who has not filed a written
7 notice not to participate in the provisions of this subsection
8 with the retirement system under this subsection or the former
9 judges retirement system shall have the \$2,250.00 of the salary
10 standardization payment subtracted from the final average compen-
11 sation figure used to calculate the judge's county, city, or dis-
12 trict control unit retirement benefit.

13 (2) Except as otherwise provided in this subsection, a judge
14 who is a plan 3 member and who is not exempt from subsection (1)
15 shall convert the balance of the state salary standardization
16 payment annually prescribed by law but which, when added to
17 \$2,250.00, does not exceed 40% of the difference between the
18 state base salary and the maximum statutory salary established by
19 the revised judicature act for any state fiscal year beginning
20 after September 30, 1982 as an addition to the judge's state base
21 salary for purposes of computation of a retirement allowance
22 under this act. A judge who, before April 1, 1983, or within 30
23 days from taking office, whichever is later, files a written
24 notice not to participate in the provisions of this subsection
25 with the retirement system is exempt from this subsection. For
26 the purposes of the calculation of a judge's combined county,
27 city, or district control unit retirement benefit, a judge who

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1 has not filed a written notice not to participate in the
2 provisions of this subsection with the retirement system under
3 this subsection or the former judges retirement system shall have
4 the additional state salary standardization payment as an addi-
5 tion to the judge's state base salary for computation of a
6 retirement allowance under this act subtracted from the final
7 average compensation figure used to calculate the judge's county,
8 city, or district control unit retirement benefit.

9 (3) The sum of the final compensation determined for each
10 plan 3 member and the final average compensation figure used as
11 the basis for determining the judge's retirement allowance as a
12 member of a county retirement plan or a retirement system that
13 was established pursuant to the municipal employees retirement
14 act of 1984, ~~Act No. 427 of the Public Acts of 1984, being sec-~~
15 ~~tions 38.1501 to 38.1557 of the Michigan Compiled Laws~~ 1984 PA
16 427, MCL 38.1501 TO 38.1555, or which is subject to ~~Act No. 443~~
17 ~~of the Public Acts of 1980, being sections 38.841 to 38.846 of~~
18 ~~the Michigan Compiled Laws~~ 1980 PA 443, MCL 38.841 TO 38.846,
19 shall not exceed the judge's total annual salary payable from all
20 sources at the time of his or her retirement.

21 (4) For purposes of subsections (1) and (2), the state base
22 salary of a judge of the probate court who is a plan 3 member is
23 equal to the salary paid ~~by this state to a judge of the dis-~~
24 ~~trict court~~ PURSUANT TO SECTION 821 OF THE REVISED JUDICATURE
25 ACT OF 1961, 1961 PA 236, MCL 600.821.

26 (5) The department or the reporting unit shall deduct the
27 member's required contribution for participation in the

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1 provisions of subsections (1) and (2) from the member's
2 compensation and shall transfer the contributions to the retire-
3 ment system.

4 Sec. 701. (1) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSEC-
5 TION (3), THE retirement system shall provide an opportunity for
6 each member who is a member on March 30, 1997, to elect in writ-
7 ing to terminate membership in Tier 1 and elect to become a qual-
8 ified participant in Tier 2. An election made by a member under
9 this subsection is irrevocable. The retirement system shall
10 accept written elections under this subsection from members
11 during the period beginning on January 2, 1998 and ending on ~~May~~
12 ~~31~~ JUNE 30, 1998. A member who does not make a written election
13 or who does not file the election during the period specified in
14 this subsection continues to be a member of Tier 1. ~~A~~ SUBJECT
15 TO SECTION 701A, A member who makes and files a written election
16 under this subsection elects to do all of the following:

17 (a) Cease to be a member of Tier 1 effective 12 midnight
18 ~~June 30~~ JULY 31, 1998.

19 (b) Become a qualified participant in Tier 2 effective 12:01
20 a.m., ~~July~~ AUGUST 1, 1998.

21 (c) Except as otherwise provided in this subdivision, waive
22 all of his or her rights to a pension, an annuity, a retirement
23 allowance, an insurance benefit, or any other benefit under Tier
24 1 effective 12 midnight ~~June 30~~ JULY 31, 1998. This subdivi-
25 sion does not affect a person's right to health benefits provided
26 under this act pursuant to section 719.

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1 (2) If an individual who was a vested former member on March
2 30, 1997, or an individual who was a former nonvested member on
3 March 30, 1997 becomes a judge or state official and is again
4 eligible for membership in Tier 1, the individual shall elect in
5 writing to remain a member of Tier 1 or to terminate membership
6 in Tier 1 and become a qualified participant in Tier 2. An elec-
7 tion made by a vested former member or a former nonvested member
8 under this subsection is irrevocable. The retirement system
9 shall accept written elections under this subsection from a
10 vested former member or a former nonvested member during the
11 period beginning on the date of the individual's eligibility for
12 membership and ending upon the expiration of 60 days after the
13 date of that eligibility. A vested former member or former non-
14 vested member who makes and files a written election to remain a
15 member of Tier 1 retains all rights and is subject to all condi-
16 tions as a member of Tier 1 under this act. A vested former
17 member or former nonvested member who does not make a written
18 election or who does not file the election during the period
19 specified in this subsection continues to be a member of Tier 1.
20 ~~A~~ SUBJECT TO SECTION 701A, A vested former member or former
21 nonvested member who makes and files a written election to termi-
22 nate membership in Tier 1 elects to do all of the following:
23 (a) Cease to be a member of Tier 1 effective 12 midnight on
24 the last day of the payroll period that includes the date of the
25 election.

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1 (b) Become a qualified participant in Tier 2 effective 12:01
2 a.m. on the first day of the payroll period immediately following
3 the date of the election.

4 (c) Except as otherwise provided in this subdivision, waive
5 all of his or her rights to a pension, an annuity, a retirement
6 allowance, an insurance benefit, or any other benefit under Tier
7 1 effective 12 midnight on the last day of the payroll period
8 that includes the date of the election. This subdivision does
9 not affect an individual's right to health benefits provided
10 under this act pursuant to section 719.

11 (3) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO WAS A
12 VESTED MEMBER OF TIER 1 ON MARCH 30, 1997 AND WHO TERMINATES THE
13 EMPLOYMENT UPON WHICH THAT MEMBERSHIP IS BASED AFTER JANUARY 1,
14 1998 BUT ON OR BEFORE JULY 31, 1998. BEFORE THE TERMINATION OF
15 HIS OR HER EMPLOYMENT, AN INDIVIDUAL DESCRIBED IN THIS SUBSECTION
16 MAY ELECT IN WRITING TO TERMINATE MEMBERSHIP IN TIER 1 AND BECOME
17 A QUALIFIED PARTICIPANT IN TIER 2. AN ELECTION MADE BY A MEMBER
18 UNDER THIS SUBSECTION IS IRREVOCABLE. THE RETIREMENT SYSTEM
19 SHALL ACCEPT WRITTEN ELECTIONS UNDER THIS SUBSECTION FROM A
20 MEMBER DURING THE PERIOD BEGINNING ON JANUARY 2, 1998 AND ENDING
21 ON JULY 31, 1998. A MEMBER DESCRIBED IN THIS SUBSECTION WHO DOES
22 NOT MAKE A WRITTEN ELECTION OR WHO DOES NOT FILE THE ELECTION
23 BEFORE THE TERMINATION OF HIS OR HER EMPLOYMENT CONTINUES TO BE A
24 MEMBER OR VESTED FORMER MEMBER OF TIER 1. A MEMBER WHO MAKES AND
25 FILES A WRITTEN ELECTION UNDER THIS SUBSECTION TO TERMINATE MEM-
26 BERSHIP IN TIER 1 ELECTS TO DO ALL OF THE FOLLOWING:

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1 (A) CEASE TO BE A MEMBER OF TIER 1 AND BECOME A QUALIFIED
2 PARTICIPANT IN TIER 2 EFFECTIVE 12 MIDNIGHT ON THE DAY
3 IMMEDIATELY PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT.

4 (B) BECOME A FORMER QUALIFIED PARTICIPANT IN TIER 2 EFFEC-
5 TIVE 12:01 A.M. ON THE DAY IMMEDIATELY FOLLOWING THE DATE
6 DESCRIBED IN SUBDIVISION (A).

7 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, WAIVE
8 ALL OF HIS OR HER RIGHTS TO A PENSION, AN ANNUITY, A RETIREMENT
9 ALLOWANCE, AN INSURANCE BENEFIT, OR ANY OTHER BENEFIT UNDER TIER
10 1 EFFECTIVE 12 MIDNIGHT ON THE DATE DESCRIBED IN SUBDIVISION
11 (A). THIS SUBDIVISION DOES NOT AFFECT AN INDIVIDUAL'S RIGHT TO
12 HEALTH BENEFITS PROVIDED UNDER THIS ACT PURSUANT TO SECTION 719.

13 (4) ~~(3)~~ After consultation with the retirement system's
14 actuary and the retirement board, the department of management
15 and budget shall determine the method by which a member, vested
16 former member, or former nonvested member shall make a written
17 election under this section. If the member, vested former
18 member, or former nonvested member is married at the time of the
19 election, the election is not effective unless the election is
20 signed by the individual's spouse. However, the retirement board
21 may waive this requirement if the spouse's signature cannot be
22 obtained because of extenuating circumstances.

23 (5) ~~(4)~~ An election under this section is subject to the
24 eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to
25 38.1711.

26 (6) ~~(5)~~ If the department of management and budget
27 receives notification from the United States internal revenue

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1 service that this section or any portion of this section will
2 cause the retirement system to be disqualified for tax purposes
3 under the internal revenue code, then the portion that will cause
4 the disqualification does not apply.

5 SEC. 701A. (1) A MEMBER WHO MAKES AND FILES A WRITTEN ELEC-
6 TION UNDER SECTION 701(1) OR AN INDIVIDUAL WHO MAKES AND FILES A
7 WRITTEN ELECTION UNDER SECTION 701(2) SHALL AT THE TIME OF THAT
8 ELECTION ALSO MAKE AN ELECTION TO DO 1 OF THE FOLLOWING:

9 (A) TO HAVE 100% OF HIS OR HER SALARY THAT IS PAID BOTH
10 DIRECTLY AND INDIRECTLY BY THIS STATE FOR THE POSITION HE OR SHE
11 HOLDS BE CONSIDERED HIS OR HER SALARY IN TIER 2.

12 (B) TO HAVE THE PORTION OF HIS OR HER SALARY THAT IS CONSID-
13 ERED COMPENSATION UNDER TIER 1 ON THE DAY BEFORE HIS OR HER ELEC-
14 TION CONTINUE TO BE THE PORTION THAT IS CONSIDERED HIS OR HER
15 SALARY IN TIER 2.

16 (2) A MEMBER OR INDIVIDUAL WHO DOES NOT MAKE THE ELECTION
17 DESCRIBED IN SUBSECTION (1) AT THE TIME HE OR SHE MAKES THE ELEC-
18 TION UNDER SECTION 701(1) OR (2) IS CONSIDERED TO HAVE MADE THE
19 ELECTION DESCRIBED IN SUBSECTION (1)(B). AN ELECTION MADE BY A
20 MEMBER OR INDIVIDUAL UNDER THIS SECTION IS IRREVOCABLE.

21 Sec. 702. (1) For a member who elects to terminate member-
22 ship in Tier 1 under section 701(1), the retirement system shall
23 direct the state treasurer to transfer a lump sum amount from the
24 appropriate fund created under this act to the qualified
25 participant's account in Tier 2 on or before ~~October 31~~
26 NOVEMBER 30, 1998. The retirement system shall calculate the

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1 amount to be transferred, which shall be equal to the sum of the
2 following:

3 (a) The member's accumulated contributions, if any, from the
4 reserve for member contributions as of 12 midnight ~~June 30~~ JULY
5 31, 1998.

6 (b) For a member who is vested under section 501(1) as of 12
7 midnight on ~~June 30~~ JULY 31, 1998, the excess, if any, of the
8 actuarial present value of the member's accumulated benefit obli-
9 gation, over the amount specified in subdivision (a), from the
10 reserve for employer contributions. Except as provided in sub-
11 section ~~(5)~~ (7), for the purposes of this subsection, the
12 present value of the member's accumulated benefit obligation is
13 based upon the member's estimated credited service and estimated
14 final salary as of 12 midnight on ~~June 30~~ JULY 31, 1998. The
15 actuarial present value shall be computed as of 12 midnight ~~June~~
16 ~~30~~ JULY 31, 1998 and shall be based on the following:

17 (i) Eight percent effective annual interest, compounded
18 annually.

19 (ii) A 50% male and 50% female gender neutral blend of the
20 mortality tables used to project retirant longevity in the most
21 recent actuarial valuation report.

22 (iii) A benefit commencement age, based upon the member's
23 estimated credited service as of 12 midnight ~~June 30~~ JULY 31,
24 1998. The benefit commencement age shall be the younger of the
25 following, but shall not be younger than the member's age as of
26 12 midnight ~~June 30~~ JULY 31, 1998:

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1 (A) Age 60.

2 (B) Age 55, if the member's estimated credited service
3 equals or exceeds 18 years.

4 (C) The member's age, if the member's estimated credited
5 service equals or exceeds 25 years.

6 (c) Interest on any amounts determined in subdivisions (a)
7 and (b), from ~~July~~ AUGUST 1, 1998 to the date of the transfer,
8 based upon 8% annual interest, compounded annually.

9 (2) For each member who elects to terminate membership in
10 the retirement system under section 701(1), the retirement system
11 shall recompute the amount transferred under subsection (1) not
12 later than ~~December 31, 1998~~ JANUARY 31, 1999 based upon the
13 member's actual credited service and actual final salary as of 12
14 midnight ~~June 30~~ JULY 31, 1998. If the recomputed amount dif-
15 fers from the amount transferred under subsection (1) by \$10.00
16 or more, not later than ~~January~~ FEBRUARY 15, 1999, the retire-
17 ment system shall do all of the following:

18 (a) Direct the state treasurer to transfer from the reserve
19 for employer contributions to the qualified participant's account
20 in Tier 2 the excess, if any, of the recomputed amount over the
21 previously transferred amount together with interest from 12 mid-
22 night ~~June 30~~ JULY 31, 1998 to the date of the transfer under
23 this subsection, based upon 8% effective annual interest, com-
24 pounded annually.

25 (b) Direct the state treasurer to transfer from the quali-
26 fied participant's account in Tier 2 to the reserve for employer
27 contributions the excess, if any, of the previously transferred

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1 amount over the recomputed amount, together with interest, from
2 the date of the transfer made under subsection (1), based upon 8%
3 effective annual interest, compounded annually.

4 (3) For a vested former member who elects to terminate mem-
5 bership in this retirement system under section 701(2), the
6 retirement system shall direct the state treasurer to transfer a
7 lump sum amount from the appropriate fund created under this act
8 to the qualified participant's account in Tier 2 on or before the
9 expiration of 60 days after the date of the individual's termina-
10 tion of employment. The retirement system shall calculate the
11 amount to be transferred, which shall be equal to the sum of the
12 following:

13 (a) The vested former member's accumulated contributions, if
14 any, from the reserve for member contributions as of 12 midnight
15 on the last day of the payroll period that includes the date of
16 the election.

17 (b) The excess, if any, of the actuarial present value of
18 the vested former member's accumulated benefit obligation, over
19 the amount specified in subdivision (a), from the reserve for
20 employer contributions. Except as provided in subsection ~~(5)~~
21 (7), for the purposes of this subsection, the present value of
22 the vested former member's accumulated benefit obligation is
23 based upon the vested former member's estimated credited service
24 and estimated final salary as of 12 midnight on the last day of
25 the payroll period that includes the date of the election. The
26 actuarial present value shall be computed as of 12 midnight on
27 that date and shall be based on the following:

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1 (i) Eight percent effective annual interest, compounded
2 annually.

3 (ii) A 50% male and 50% female gender neutral blend of the
4 mortality tables used to project retirant longevity in the most
5 recent annual actuarial valuation report.

6 (iii) A benefit commencement age, based upon the member's
7 estimated credited service as of 12 midnight on the last day of
8 the payroll period that includes the date of the election. The
9 benefit commencement age shall be the younger of the following,
10 but shall not be younger than the member's age as of 12 midnight
11 on the last day of the payroll period that includes the date of
12 the election:

13 (A) Age 60.

14 (B) Age 55, if the vested former member's estimated credited
15 service equals or exceeds 18 years.

16 (C) The vested former member's age, if the vested former
17 member's estimated credited service equals or exceeds 25 years.

18 (c) Interest on any amounts determined in subdivisions (a)
19 and (b), from the first day of the payroll period immediately
20 following the date of the election to the date of the transfer,
21 based upon 8% effective annual interest, compounded annually.

22 (4) For each vested former member who elects to terminate
23 membership in Tier 1 under section 701(2), the retirement system
24 shall recompute the amount transferred under subsection (3) not
25 later than the expiration of 90 days after the transfer occurs
26 under subsection (3) based upon the vested former member's actual
27 credited service and actual final salary as of 12 midnight on the

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1 last day of the payroll period that includes the date of the
2 election. If the recomputed amount differs from the amount
3 transferred under subsection (3) by \$10.00 or more, the retire-
4 ment system shall do all of the following:

5 (a) Direct the state treasurer to transfer from the reserve
6 for employer contributions to the qualified participant's account
7 in Tier 2 the excess, if any, of the recomputed amount over the
8 previously transferred amount together with interest from 12 mid-
9 night on the last day of the payroll period that includes the
10 date of the election to the date of the transfer under this sub-
11 section, based upon 8% effective annual interest, compounded
12 annually.

13 (b) Direct the state treasurer to transfer from the quali-
14 fied participant's account in Tier 2 to the reserve for employer
15 contributions the excess, if any, of the previously transferred
16 amount over the recomputed amount, together with interest, from
17 the date of the transfer made under subsection (3), based upon 8%
18 effective annual interest, compounded annually.

19 (5) FOR A MEMBER WHO ELECTS TO TERMINATE MEMBERSHIP IN THIS
20 RETIREMENT SYSTEM UNDER SECTION 701(3), THE RETIREMENT SYSTEM
21 SHALL DIRECT THE STATE TREASURER TO TRANSFER A LUMP SUM AMOUNT
22 FROM THE APPROPRIATE FUND CREATED UNDER THIS ACT TO THE FORMER
23 QUALIFIED PARTICIPANT'S ACCOUNT IN TIER 2 ON OR BEFORE THE EXPI-
24 RATION OF 60 DAYS AFTER THE DATE OF THE INDIVIDUAL'S TERMINATION
25 OF EMPLOYMENT. THE RETIREMENT SYSTEM SHALL CALCULATE THE AMOUNT
26 TO BE TRANSFERRED, WHICH SHALL BE EQUAL TO THE SUM OF THE
27 FOLLOWING:

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1 (A) THE MEMBER'S ACCUMULATED CONTRIBUTIONS, IF ANY, FROM THE
2 RESERVE FOR MEMBER CONTRIBUTIONS AS OF 12 MIDNIGHT ON THE DAY
3 IMMEDIATELY PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT.

4 (B) THE EXCESS, IF ANY, OF THE ACTUARIAL PRESENT VALUE OF
5 THE MEMBER'S ACCUMULATED BENEFIT OBLIGATION, OVER THE AMOUNT
6 SPECIFIED IN SUBDIVISION (A), FROM THE RESERVE FOR EMPLOYER
7 CONTRIBUTIONS. EXCEPT AS PROVIDED IN SUBSECTION (7), FOR THE
8 PURPOSES OF THIS SUBSECTION, THE PRESENT VALUE OF THE MEMBER'S
9 ACCUMULATED BENEFIT OBLIGATION IS BASED UPON THE MEMBER'S ESTI-
10 MATED CREDITED SERVICE AND ESTIMATED FINAL SALARY AS OF 12 MID-
11 NIGHT ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE TERMINA-
12 TION OF EMPLOYMENT. THE ACTUARIAL PRESENT VALUE SHALL BE COM-
13 PUTED AS OF 12 MIDNIGHT ON THAT DATE AND SHALL BE BASED ON THE
14 FOLLOWING:

15 (i) EIGHT PERCENT EFFECTIVE ANNUAL INTEREST, COMPOUNDED
16 ANNUALLY.

17 (ii) A 50% MALE AND 50% FEMALE GENDER NEUTRAL BLEND OF THE
18 MORTALITY TABLES USED TO PROJECT RETIRANT LONGEVITY IN THE MOST
19 RECENT ANNUAL ACTUARIAL VALUATION REPORT.

20 (iii) A BENEFIT COMMENCEMENT AGE, BASED UPON THE MEMBER'S
21 ESTIMATED CREDITED SERVICE AS OF 12 MIDNIGHT ON THE DAY IMMEDI-
22 ATELY PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT. THE
23 BENEFIT COMMENCEMENT AGE SHALL BE THE YOUNGER OF THE FOLLOWING,
24 BUT SHALL NOT BE YOUNGER THAN THE MEMBER'S AGE AS OF 12 MIDNIGHT
25 ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE TERMINATION OF
26 EMPLOYMENT:

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1 (A) AGE 60.
2 (B) AGE 55, IF THE MEMBER'S ESTIMATED CREDITED SERVICE
3 EQUALS OR EXCEEDS 18 YEARS.
4 (C) THE AGE OF THE MEMBER IF THE MEMBER'S ESTIMATED CREDITED
5 SERVICE EQUALS OR EXCEEDS 25 YEARS.
6 (C) INTEREST ON ANY AMOUNTS DETERMINED IN SUBDIVISIONS (A)
7 AND (B), FROM THE DAY IMMEDIATELY FOLLOWING THE DATE DESCRIBED IN
8 SUBDIVISION (A) TO THE DATE OF THE TRANSFER, BASED UPON 8% EFFEC-
9 TIVE ANNUAL INTEREST, COMPOUNDED ANNUALLY.
10 (6) FOR EACH MEMBER WHO ELECTS TO TERMINATE MEMBERSHIP IN
11 TIER 1 UNDER SECTION 701(3), THE RETIREMENT SYSTEM SHALL RECOM-
12 PUTE THE AMOUNT TRANSFERRED UNDER SUBSECTION (5) NOT LATER THAN
13 THE EXPIRATION OF 90 DAYS AFTER THE TRANSFER OCCURS UNDER SUBSEC-
14 TION (5) BASED UPON THE MEMBER'S ACTUAL CREDITED SERVICE AND
15 ACTUAL FINAL SALARY AS OF 12 MIDNIGHT ON THE DAY IMMEDIATELY PRE-
16 CEDING THE DATE OF THE TERMINATION OF EMPLOYMENT. IF THE RECOM-
17 PUTED AMOUNT DIFFERS FROM THE AMOUNT TRANSFERRED UNDER SUBSECTION
18 (5) BY \$10.00 OR MORE, THE RETIREMENT SYSTEM SHALL DO ALL OF THE
19 FOLLOWING:
20 (A) DIRECT THE STATE TREASURER TO TRANSFER FROM THE RESERVE
21 FOR EMPLOYER CONTRIBUTIONS TO THE FORMER QUALIFIED PARTICIPANT'S
22 ACCOUNT IN TIER 2 THE EXCESS, IF ANY, OF THE RECOMPUTED AMOUNT
23 OVER THE PREVIOUSLY TRANSFERRED AMOUNT TOGETHER WITH INTEREST
24 FROM 12 MIDNIGHT ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE
25 TERMINATION OF EMPLOYMENT TO THE DATE OF THE TRANSFER UNDER THIS
26 SUBSECTION, BASED UPON 8% EFFECTIVE ANNUAL INTEREST, COMPOUNDED
27 ANNUALLY.

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1 (B) DIRECT THE STATE TREASURER TO TRANSFER FROM THE FORMER
2 QUALIFIED PARTICIPANT'S ACCOUNT IN TIER 2 TO THE RESERVE FOR
3 EMPLOYER CONTRIBUTIONS THE EXCESS, IF ANY, OF THE PREVIOUSLY
4 TRANSFERRED AMOUNT OVER THE RECOMPUTED AMOUNT, TOGETHER WITH
5 INTEREST, FROM THE DATE OF THE TRANSFER MADE UNDER SUBSECTION
6 (5), BASED UPON 8% EFFECTIVE ANNUAL INTEREST, COMPOUNDED
7 ANNUALLY.

8 (7) ~~(5)~~ For the purposes of subsections (1) to ~~(4)~~ (6),
9 the calculation of estimated and actual present value of the
10 member's or vested former member's accumulated benefit obligation
11 shall be based upon methods adopted by the department of manage-
12 ment and budget and the retirement system's actuary in consulta-
13 tion with the retirement board. The retirement system shall uti-
14 lize the same actuarial valuation report used to calculate the
15 amount transferred under subsection (1), ~~or~~ (3), OR (5) when
16 making the recomputation required under subsection (2), ~~or~~ (4),
17 OR (6). Estimated and actual final salary shall be determined as
18 provided in section 105(4) as of 12 midnight on the date the
19 member or deferred member ceases to be a member of Tier 1 under
20 section 701.

21 (8) ~~(6)~~ For a former nonvested member who elects to termi-
22 nate membership in Tier 1 under section 701(2) and who has accu-
23 mulated contributions standing to his or her credit in the
24 reserve for member contributions, the retirement system shall
25 direct the state treasurer to transfer a lump sum amount from the
26 reserve for member contributions created under section 210 to the
27 qualified participant's account in Tier 2 on or before the

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1 expiration of 60 days after the date of the individual's election
2 to terminate membership. The retirement system shall calculate
3 the amount to be transferred, which shall be equal to the sum of
4 the following:

5 (a) The former nonvested member's accumulated contributions,
6 if any, from the reserve for member contributions as of 12 mid-
7 night on the last day of the payroll period that includes the
8 date of the election.

9 (b) Interest on any amounts determined in subdivision (a),
10 from the first day of the payroll period immediately following
11 the date of the election to the date of the transfer, based upon
12 8% effective annual interest, compounded annually.

13 (9) ~~(7)~~ If the department of management and budget
14 receives notification from the United States internal revenue
15 service that this section or any portion of this section will
16 cause the retirement system to be disqualified for tax purposes
17 under the internal revenue code, then the portion that will cause
18 the disqualification does not apply.

19 Sec. 705. (1) "Employer" means ~~the qualified participant's~~
20 ~~reporting unit~~ THIS STATE.

21 (2) "Former qualified participant" means an individual who
22 was a qualified participant and who terminates the employment
23 upon which his or her participation is based for any reason.

24 (3) "Health benefit dependent" means the qualified or former
25 qualified participant's spouse, if any, and an unmarried child
26 who is considered a dependent of the qualified or former

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1 qualified participant under section 152 of the internal revenue
2 code, if any.

3 Sec. 706. (1) "Qualified participant" means an individual
4 who is a participant of Tier 2 and who meets 1 of the following
5 requirements:

6 (a) An individual who first becomes a judge or state offi-
7 cial on or after March 31, 1997, and who before March 31, 1997
8 would have been eligible to be a member of Tier 1.

9 (b) An individual who elects to terminate membership in Tier
10 1 and who elects to participate in Tier 2 in the manner pre-
11 scribed in section 701.

12 (2) "Refund beneficiary" means an individual nominated by a
13 qualified participant or a former qualified participant under
14 section 717 to receive a distribution of the participant's accu-
15 mulated balance in the manner prescribed in section 718.

16 (3) "SALARY" MEANS 1 OF THE FOLLOWING:

17 (A) FOR AN INDIVIDUAL DESCRIBED IN SUBSECTION (1)(A), 100%
18 OF HIS OR HER SALARY THAT IS PAID BOTH DIRECTLY AND INDIRECTLY BY
19 THIS STATE FOR THE POSITION HE OR SHE HOLDS.

20 (B) FOR AN INDIVIDUAL DESCRIBED IN SUBSECTION (1)(B), THE
21 SALARY THAT HE OR SHE ELECTS OR IS CONSIDERED TO HAVE ELECTED
22 UNDER SECTION 701A.

23 (4) ~~-(3)-~~ "State treasurer" means the treasurer of this
24 state.

25 Sec. 711. (1) A qualified participant shall not participate
26 in any other public sector retirement benefits plan for
27 simultaneous service rendered to the same public sector

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1 employer. THIS SUBSECTION DOES NOT APPLY TO A QUALIFIED
2 PARTICIPANT WHO MAKES THE ELECTION UNDER SECTION 701A(1)(B) FOR
3 THAT PORTION OF HIS OR HER COMPENSATION THAT IS NOT CONSIDERED
4 SALARY FOR THE PURPOSES OF TIER 2. Except as otherwise provided
5 in this act, ~~or by the state treasurer,~~ this section does not
6 prohibit a qualified participant from participating in a retire-
7 ment plan established UNDER THE INTERNAL REVENUE CODE by this
8 state or other public sector employer. ~~under the internal reve-~~
9 ~~nue code.~~

10 (2) A QUALIFIED PARTICIPANT CONSENTS AS A CONDITION OF PAR-
11 TICIPATION IN TIER 2 THAT HE OR SHE SHALL NOT RECEIVE A RETIRE-
12 MENT ALLOWANCE OR OTHER BENEFIT FROM ANY OTHER PUBLIC SECTOR
13 RETIREMENT BENEFITS PLAN WHILE HOLDING THE POSITION THAT QUALI-
14 FIES HIM OR HER FOR PARTICIPATION IN TIER 2 AND THE OTHER PLAN.
15 A QUALIFIED PARTICIPANT WHO RECEIVES A RETIREMENT ALLOWANCE IN
16 VIOLATION OF THIS SUBSECTION FORFEITS HIS OR HER RIGHT TO
17 EMPLOYER CONTRIBUTIONS UNDER SECTION 714. THE EMPLOYER OF A
18 QUALIFIED PARTICIPANT WHO VIOLATES THIS SUBSECTION SHALL IMMEDI-
19 ATELY SUSPEND EMPLOYER CONTRIBUTIONS UNDER SECTION 714. A QUALI-
20 FIED PARTICIPANT WHO IS A CONTRIBUTING MEMBER IN A LOCAL PUBLIC
21 SECTOR RETIREMENT BENEFITS PLAN ON THE DAY BEFORE HE OR SHE
22 BECOMES A QUALIFIED PARTICIPANT IN TIER 2 AND WHO DOES NOT HAVE A
23 VESTED RIGHT TO A RETIREMENT BENEFIT UNDER THAT PLAN ON THAT DATE
24 MAY WITHDRAW THE CONTRIBUTIONS MADE BY THAT PARTICIPANT TO THE
25 LOCAL PLAN WITHOUT VIOLATING THIS SUBSECTION. THIS SUBSECTION
26 DOES NOT APPLY TO A FORMER QUALIFIED PARTICIPANT.

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1 (3) A PUBLIC SECTOR RETIREMENT BENEFITS PLAN SHALL NOT USE
2 THIS SECTION OR AN ELECTION MADE BY AN INDIVIDUAL UNDER SECTION
3 701 TO AFFECT, ALTER, OR DIMINISH THAT INDIVIDUAL'S RIGHT TO
4 HEALTH CARE BENEFITS OR A VESTED RIGHT TO A RETIREMENT BENEFIT
5 FOR SERVICE AS A JUDGE PROVIDED BY THAT PLAN AS OF THE DAY BEFORE
6 HE OR SHE BECOMES A QUALIFIED PARTICIPANT IN TIER 2.

7 SEC. 718A. (1) A QUALIFIED PARTICIPANT WHO HAS 8 OR MORE
8 YEARS OF CREDITED SERVICE AND WHO IS PHYSICALLY OR MENTALLY
9 TOTALLY DISABLED TO PERFORM HIS OR HER DUTIES AS DETERMINED IN
10 THE MANNER PRESCRIBED IN SECTION 507 SHALL BE GRANTED A SUPPLE-
11 MENTAL BENEFIT EQUIVALENT TO THE AMOUNT PROVIDED FOR IN SECTION
12 507 AS IF THE FORMER QUALIFIED PARTICIPANT HAD RETIRED UNDER THAT
13 SECTION. IF A QUALIFIED PARTICIPANT WHO HAS 8 OR MORE YEARS OF
14 CREDITED SERVICE DIES WHILE IN OFFICE, A SUPPLEMENTAL BENEFIT
15 EQUIVALENT TO THE AMOUNT PROVIDED FOR IN SECTION 508 SHALL BE
16 GRANTED TO A SURVIVOR DESCRIBED IN SECTION 508, IN THE MANNER
17 PRESCRIBED IN THAT SECTION. THE RETIREMENT SYSTEM SHALL OFFSET A
18 SUPPLEMENTAL BENEFIT PROVIDED UNDER THIS SECTION BY THE VALUE OF
19 THE DISTRIBUTION OF THE FORMER QUALIFIED PARTICIPANT'S OR
20 DECEASED QUALIFIED PARTICIPANT'S ACCUMULATED BALANCE PURSUANT TO
21 SECTION 718.

22 (2) A FORMER QUALIFIED PARTICIPANT OR BENEFICIARY OF A
23 DECEASED QUALIFIED PARTICIPANT WHO IS ELIGIBLE FOR A SUPPLEMENTAL
24 BENEFIT UNDER SUBSECTION (1) IS ELIGIBLE FOR HEALTH INSURANCE
25 COVERAGE UNDER SECTION 509 IN ALL RESPECTS AND UNDER THE SAME
26 TERMS AS WOULD BE A RETIRANT AND HIS OR HER BENEFICIARIES UNDER
27 TIER 1, BUT ONLY IF THE FORMER QUALIFIED PARTICIPANT OR DECEASED

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- 1 QUALIFIED PARTICIPANT WOULD HAVE BEEN ELIGIBLE FOR HEALTH
- 2 INSURANCE COVERAGE HAD HE OR SHE BEEN A MEMBER OF TIER 1.