

HOUSE BILL No. 5857

May 13, 1998, Introduced by Reps. Ciaramitaro and DeHart and referred to the Committee on Public Retirement.

A bill to amend 1992 PA 234, entitled "The judges retirement act of 1992," by amending sections 104, 110a, 217, 401a, 504, 701, 702, 705, 706, and 711 (MCL 38.2104, 38.2110a, 38.2217, 38.2401a, 38.2504, 38.2651, 38.2652, 38.2655, 38.2656, and 38.2661), section 104 as amended by 1995 PA 193, sections 110a, 401a, 705, 706, and 711 as added by 1996 PA 523, section 217 as amended by 1996 PA 525, and sections 701 and 702 as amended by 1998 PA 66, and by adding sections 701a, 707a, 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

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

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

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

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

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

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

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. 110a. (1) "Tier 1" means the retirement plan available
25 under this act to a member who MEETS 1 OF THE FOLLOWING
26 REQUIREMENTS:

1 (A) THE INDIVIDUAL first became a judge or state official
2 before March 31, 1997 and ~~who~~ HE OR SHE does not elect to
3 become a qualified participant of Tier 2 UNDER SECTION 701.

4 (B) THE INDIVIDUAL FIRST BECOMES A JUDGE OR STATE OFFICIAL
5 ON OR AFTER MARCH 31, 1997 AND HE OR SHE ELECTS TO BECOME A
6 MEMBER OF TIER 1 UNDER SECTION 707A.

7 (2) "Tier 2" means the retirement plan established pursuant
8 to the internal revenue code that is available to qualified par-
9 ticipants under article VII.

10 Sec. 217. (1) A court fee fund is created in the state
11 treasury. The state treasurer shall deposit into the court fee
12 fund all money received from the executive secretary pursuant to
13 section 304(4). The state treasurer shall transmit the money in
14 the court fee fund, not exceeding \$2,200,000.00 in any fiscal
15 year, to the court equity fund created by section 151b of the
16 revised judicature act OF 1961, ~~being section 600.151b of the~~
17 ~~Michigan Compiled Laws,~~ 1961 PA 236, MCL 600.151B. IF THE COURT
18 FEE FUND EXCEEDS \$2,200,000.00 IN ANY FISCAL YEAR AND
19 \$2,200,000.00 IS TRANSMITTED TO THE COURT EQUITY FUND, AN AMOUNT
20 MAY BE APPROPRIATED FROM THE COURT FEE FUND for operational
21 expenses of trial courts. OPERATIONAL EXPENSES MAY INCLUDE THE
22 PAYMENT OF SALARIES OF TRIAL COURT JUDGES OTHER THAN JUDGES OF
23 THE DISTRICT COURT. Any money remaining in the court fee fund at
24 the end of the fiscal year shall remain in the court fee fund and
25 shall not revert to the general fund.

26 (2) This section applies unless the department receives
27 notification from the United States internal revenue service that

1 this section will cause the retirement system to be disqualified
2 for tax purposes under the internal revenue code.

3 Sec. 401a. (1) Notwithstanding section 401, an individual
4 described in this subsection is not a member of the Tier 1
5 retirement plan:

6 (a) An individual who first becomes a judge or state offi-
7 cial on or after March 31, 1997, UNLESS THAT INDIVIDUAL ELECTS TO
8 BECOME A MEMBER OF TIER 1 UNDER SECTION 707A.

9 (b) An individual who elects to terminate membership under
10 section 701 and who, but for that election, would otherwise be
11 eligible for membership in Tier 1 pursuant to section 401.

12 (2) An individual who first becomes a judge or state offi-
13 cial on or after March 31, 1997 AND WHO DOES NOT MAKE THE ELEC-
14 TION TO BECOME A MEMBER OF TIER 1 UNDER SECTION 707A, is eligible
15 to be a qualified participant in Tier 2 subject to article VII.

16 Sec. 504. (1) Except as otherwise provided in this subsec-
17 tion, a judge who is a plan 3 member shall convert \$2,250.00 of
18 the state salary standardization payment annually prescribed by
19 law for any state fiscal year beginning after September 30, 1981
20 as an addition to the judge's state base salary for purposes of
21 computation of a retirement allowance under this act. A judge
22 who, within 30 days from taking office, files a written notice
23 not to participate in the provisions of this subsection with the
24 retirement system is exempt from this subsection. A judge who
25 was serving on December 31, 1982 and who did not elect to convert
26 \$2,250.00 of the state salary standardization payment under
27 section 14a of former ~~Act No. 198 of the Public Acts of 1951,~~

1 1951 PA 198 is exempt from this section. For the purposes of the
2 calculation of a judge's combined county, city, or district con-
3 trol unit retirement benefit, a judge who has not filed a written
4 notice not to participate in the provisions of this subsection
5 with the retirement system under this subsection or the former
6 judges retirement system shall have the \$2,250.00 of the salary
7 standardization payment subtracted from the final average compen-
8 sation figure used to calculate the judge's county, city, or dis-
9 trict control unit retirement benefit.

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

1 additional state salary standardization payment as an addition to
2 the judge's state base salary for computation of a retirement
3 allowance under this act subtracted from the final average com-
4 pensation figure used to calculate the judge's county, city, or
5 district control unit retirement benefit.

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

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

23 (5) The department or the reporting unit shall deduct the
24 member's required contribution for participation in the provi-
25 sions of subsections (1) and (2) from the member's compensation
26 and shall transfer the contributions to the retirement system.

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

14 (a) Cease to be a member of Tier 1 effective 12 midnight
15 June 30, 1998.

16 (b) Become a qualified participant in Tier 2 effective 12:01
17 a.m., July 1, 1998.

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

24 (2) If an individual who was a vested former member on March
25 30, 1997, or an individual who was a former nonvested member on
26 March 30, 1997 becomes a judge or state official and is again
27 eligible for membership in Tier 1, the individual shall elect in

1 writing to remain a member of Tier 1 or to terminate membership
2 in Tier 1 and become a qualified participant in Tier 2. An elec-
3 tion made by a vested former member or a former nonvested member
4 under this subsection is irrevocable. The retirement system
5 shall accept written elections under this subsection from a
6 vested former member or a former nonvested member during the
7 period beginning on the date of the individual's eligibility for
8 membership and ending upon the expiration of 60 days after the
9 date of that eligibility. A vested former member or former non-
10 vested member who makes and files a written election to remain a
11 member of Tier 1 retains all rights and is subject to all condi-
12 tions as a member of Tier 1 under this act. A vested former
13 member or former nonvested member who does not make a written
14 election or who does not file the election during the period
15 specified in this subsection continues to be a member of Tier 1.
16 ~~A~~ SUBJECT TO SECTION 701A, A vested former member or former
17 nonvested member who makes and files a written election to termi-
18 nate membership in Tier 1 elects to do all of the following:

19 (a) Cease to be a member of Tier 1 effective 12 midnight on
20 the last day of the payroll period that includes the date of the
21 election.

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

25 (c) Except as otherwise provided in this subdivision, waive
26 all of his or her rights to a pension, an annuity, a retirement
27 allowance, an insurance benefit, or any other benefit under Tier

1 1 effective 12 midnight on the last day of the payroll period
2 that includes the date of the election. This subdivision does
3 not affect an individual's right to health benefits provided
4 under this act pursuant to section 719.

5 (3) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO WAS A
6 VESTED MEMBER OF TIER 1 ON MARCH 30, 1997 AND WHO TERMINATES THE
7 EMPLOYMENT UPON WHICH THAT MEMBERSHIP IS BASED AFTER JANUARY 1,
8 1998 BUT ON OR BEFORE JUNE 30, 1998. BEFORE THE TERMINATION OF
9 HIS OR HER EMPLOYMENT, AN INDIVIDUAL DESCRIBED IN THIS SUBSECTION
10 MAY ELECT IN WRITING TO TERMINATE MEMBERSHIP IN TIER 1 AND BECOME
11 A QUALIFIED PARTICIPANT IN TIER 2. AN ELECTION MADE BY A MEMBER
12 UNDER THIS SUBSECTION IS IRREVOCABLE. THE RETIREMENT SYSTEM
13 SHALL ACCEPT WRITTEN ELECTIONS UNDER THIS SUBSECTION FROM A
14 MEMBER DURING THE PERIOD BEGINNING ON JANUARY 2, 1998 AND ENDING
15 ON JUNE 30, 1998. A MEMBER DESCRIBED IN THIS SUBSECTION WHO DOES
16 NOT MAKE A WRITTEN ELECTION OR WHO DOES NOT FILE THE ELECTION
17 BEFORE THE TERMINATION OF HIS OR HER EMPLOYMENT CONTINUES TO BE A
18 MEMBER OR VESTED FORMER MEMBER OF TIER 1. A MEMBER WHO MAKES AND
19 FILES A WRITTEN ELECTION UNDER THIS SUBSECTION TO TERMINATE MEM-
20 BERSHIP IN TIER 1 ELECTS TO DO ALL OF THE FOLLOWING:

21 (A) CEASE TO BE A MEMBER OF TIER 1 AND BECOME A QUALIFIED
22 PARTICIPANT IN TIER 2 EFFECTIVE 12 MIDNIGHT ON THE DAY IMMEDI-
23 ATELY PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT.

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

1 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, WAIVE
2 ALL OF HIS OR HER RIGHTS TO A PENSION, AN ANNUITY, A RETIREMENT
3 ALLOWANCE, AN INSURANCE BENEFIT, OR ANY OTHER BENEFIT UNDER TIER
4 1 EFFECTIVE 12 MIDNIGHT ON THE DATE DESCRIBED IN SUBDIVISION
5 (A). THIS SUBDIVISION DOES NOT AFFECT AN INDIVIDUAL'S RIGHT TO
6 HEALTH BENEFITS PROVIDED UNDER THIS ACT PURSUANT TO SECTION 719.

7 (4) ~~-(3)-~~ After consultation with the retirement system's
8 actuary and the retirement board, the department of management
9 and budget shall determine the method by which a member, vested
10 former member, or former nonvested member shall make a written
11 election under this section. If the member, vested former
12 member, or former nonvested member is married at the time of the
13 election, the election is not effective unless the election is
14 signed by the individual's spouse. However, the retirement board
15 may waive this requirement if the spouse's signature cannot be
16 obtained because of extenuating circumstances.

17 (5) ~~-(4)-~~ An election under this section is subject to the
18 eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to
19 38.1711.

20 (6) ~~-(5)-~~ If the department of management and budget
21 receives notification from the United States internal revenue
22 service that this section or any portion of this section will
23 cause the retirement system to be disqualified for tax purposes
24 under the internal revenue code, then the portion that will cause
25 the disqualification does not apply.

26 SEC. 701A. (1) A MEMBER WHO MAKES AND FILES A WRITTEN
27 ELECTION UNDER SECTION 701(1) OR AN INDIVIDUAL WHO MAKES AND

1 FILES A WRITTEN ELECTION UNDER SECTION 701(2) SHALL AT THE TIME
2 OF THAT ELECTION ALSO MAKE AN ELECTION TO DO 1 OF THE FOLLOWING:

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

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

10 (2) A MEMBER OR INDIVIDUAL WHO DOES NOT MAKE THE ELECTION
11 DESCRIBED IN SUBSECTION (1) AT THE TIME HE OR SHE MAKES THE ELEC-
12 TION UNDER SECTION 701(1) OR (2) IS CONSIDERED TO HAVE MADE THE
13 ELECTION DESCRIBED IN SUBSECTION (1)(B). AN ELECTION MADE BY A
14 MEMBER OR INDIVIDUAL UNDER THIS SECTION IS IRREVOCABLE.

15 Sec. 702. (1) For a member who elects to terminate member-
16 ship in Tier 1 under section 701(1), the retirement system shall
17 direct the state treasurer to transfer a lump sum amount from the
18 appropriate fund created under this act to the qualified
19 participant's account in Tier 2 on or before October 31, 1998.
20 The retirement system shall calculate the amount to be trans-
21 ferred, which shall be equal to the sum of the following:

22 (a) The member's accumulated contributions, if any, from the
23 reserve for member contributions as of 12 midnight June 30,
24 1998.

25 (b) For a member who is vested under section 501(1) as of 12
26 midnight on June 30, 1998, the excess, if any, of the actuarial
27 present value of the member's accumulated benefit obligation,

1 over the amount specified in subdivision (a), from the reserve
2 for employer contributions. Except as provided in subsection
3 ~~-(5)-~~ (7), for the purposes of this subsection, the present value
4 of the member's accumulated benefit obligation is based upon the
5 member's estimated credited service and estimated final salary as
6 of 12 midnight on June 30, 1998. The actuarial present value
7 shall be computed as of 12 midnight June 30, 1998 and shall be
8 based on the following:

9 (i) Eight percent effective annual interest, compounded
10 annually.

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

14 (iii) A benefit commencement age, based upon the member's
15 estimated credited service as of 12 midnight June 30, 1998. The
16 benefit commencement age shall be the younger of the following,
17 but shall not be younger than the member's age as of 12 midnight
18 June 30, 1998:

19 (A) Age 60.

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

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

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

1 (2) For each member who elects to terminate membership in
2 the retirement system under section 701(1), the retirement system
3 shall recompute the amount transferred under subsection (1) not
4 later than December 31, 1998 based upon the member's actual cred-
5 ited service and actual final salary as of 12 midnight June 30,
6 1998. If the recomputed amount differs from the amount trans-
7 ferred under subsection (1) by \$10.00 or more, not later than
8 January 15, 1999, the retirement system shall do all of the
9 following:

10 (a) Direct the state treasurer to transfer from the reserve
11 for employer contributions to the qualified participant's account
12 in Tier 2 the excess, if any, of the recomputed amount over the
13 previously transferred amount together with interest from 12 mid-
14 night June 30, 1998 to the date of the transfer under this sub-
15 section, based upon 8% effective annual interest, compounded
16 annually.

17 (b) Direct the state treasurer to transfer from the quali-
18 fied participant's account in Tier 2 to the reserve for employer
19 contributions the excess, if any, of the previously transferred
20 amount over the recomputed amount, together with interest, from
21 the date of the transfer made under subsection (1), based upon 8%
22 effective annual interest, compounded annually.

23 (3) For a vested former member who elects to terminate mem-
24 bership in this retirement system under section 701(2), the
25 retirement system shall direct the state treasurer to transfer a
26 lump sum amount from the appropriate fund created under this act
27 to the qualified participant's account in Tier 2 on or before the

1 expiration of 60 days after the date of the individual's
2 termination of employment. 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 vested former member's accumulated contributions, if
6 any, from the reserve for member contributions as of 12 midnight
7 on the last day of the payroll period that includes the date of
8 the election.

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

20 (i) Eight percent effective annual interest, compounded
21 annually.

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

25 (iii) A benefit commencement age, based upon the member's
26 estimated credited service as of 12 midnight on the last day of
27 the payroll period that includes the date of the election. The

1 benefit commencement age shall be the younger of the following,
2 but shall not be younger than the member's age as of 12 midnight
3 on the last day of the payroll period that includes the date of
4 the election:

5 (A) Age 60.

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

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

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

14 (4) For each vested former member who elects to terminate
15 membership in Tier 1 under section 701(2), the retirement system
16 shall recompute the amount transferred under subsection (3) not
17 later than the expiration of 90 days after the transfer occurs
18 under subsection (3) based upon the vested former member's actual
19 credited service and actual final salary as of 12 midnight on the
20 last day of the payroll period that includes the date of the
21 election. If the recomputed amount differs from the amount
22 transferred under subsection (3) by \$10.00 or more, the retire-
23 ment system shall do all of the following:

24 (a) Direct the state treasurer to transfer from the reserve
25 for employer contributions to the qualified participant's account
26 in Tier 2 the excess, if any, of the recomputed amount over the
27 previously transferred amount together with interest from 12

1 midnight on the last day of the payroll period that includes the
2 date of the election to the date of the transfer under this sub-
3 section, based upon 8% effective annual interest, compounded
4 annually.

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

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

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

23 (B) THE EXCESS, IF ANY, OF THE ACTUARIAL PRESENT VALUE OF
24 THE MEMBER'S ACCUMULATED BENEFIT OBLIGATION, OVER THE AMOUNT
25 SPECIFIED IN SUBDIVISION (A), FROM THE RESERVE FOR EMPLOYER
26 CONTRIBUTIONS. EXCEPT AS PROVIDED IN SUBSECTION (7), FOR THE
27 PURPOSES OF THIS SUBSECTION, THE PRESENT VALUE OF THE MEMBER'S

1 ACCUMULATED BENEFIT OBLIGATION IS BASED UPON THE MEMBER'S
2 ESTIMATED CREDITED SERVICE AND ESTIMATED FINAL SALARY AS OF 12
3 MIDNIGHT ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE TERMI-
4 NATION OF EMPLOYMENT. THE ACTUARIAL PRESENT VALUE SHALL BE COM-
5 PUTED AS OF 12 MIDNIGHT ON THAT DATE AND SHALL BE BASED ON THE
6 FOLLOWING:

7 (i) EIGHT PERCENT EFFECTIVE ANNUAL INTEREST, COMPOUNDED
8 ANNUALLY.

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

12 (iii) A BENEFIT COMMENCEMENT AGE, BASED UPON THE MEMBER'S
13 ESTIMATED CREDITED SERVICE AS OF 12 MIDNIGHT ON THE DAY IMMEDI-
14 ATELY PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT. THE
15 BENEFIT COMMENCEMENT AGE SHALL BE THE YOUNGER OF THE FOLLOWING,
16 BUT SHALL NOT BE YOUNGER THAN THE MEMBER'S AGE AS OF 12 MIDNIGHT
17 ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE TERMINATION OF
18 EMPLOYMENT:

19 (A) AGE 60.

20 (B) AGE 55, IF THE MEMBER'S ESTIMATED CREDITED SERVICE
21 EQUALS OR EXCEEDS 18 YEARS.

22 (C) THE AGE OF THE MEMBER IF THE MEMBER'S ESTIMATED CREDITED
23 SERVICE EQUALS OR EXCEEDS 25 YEARS.

24 (C) INTEREST ON ANY AMOUNTS DETERMINED IN SUBDIVISIONS (A)
25 AND (B), FROM THE DAY IMMEDIATELY FOLLOWING THE DATE DESCRIBED IN
26 SUBDIVISION (A) TO THE DATE OF THE TRANSFER, BASED UPON 8%
27 EFFECTIVE ANNUAL INTEREST, COMPOUNDED ANNUALLY.

1 (6) FOR EACH MEMBER WHO ELECTS TO TERMINATE MEMBERSHIP IN
2 TIER 1 UNDER SECTION 701(3), THE RETIREMENT SYSTEM SHALL RECOM-
3 PUTE THE AMOUNT TRANSFERRED UNDER SUBSECTION (5) NOT LATER THAN
4 THE EXPIRATION OF 90 DAYS AFTER THE TRANSFER OCCURS UNDER SUBSEC-
5 TION (5) BASED UPON THE MEMBER'S ACTUAL CREDITED SERVICE AND
6 ACTUAL FINAL SALARY AS OF 12 MIDNIGHT ON THE DAY IMMEDIATELY PRE-
7 CEDING THE DATE OF THE TERMINATION OF EMPLOYMENT. IF THE RECOM-
8 PUTED AMOUNT DIFFERS FROM THE AMOUNT TRANSFERRED UNDER SUBSECTION
9 (5) BY \$10.00 OR MORE, THE RETIREMENT SYSTEM SHALL DO ALL OF THE
10 FOLLOWING:

11 (A) DIRECT THE STATE TREASURER TO TRANSFER FROM THE RESERVE
12 FOR EMPLOYER CONTRIBUTIONS TO THE FORMER QUALIFIED PARTICIPANT'S
13 ACCOUNT IN TIER 2 THE EXCESS, IF ANY, OF THE RECOMPUTED AMOUNT
14 OVER THE PREVIOUSLY TRANSFERRED AMOUNT TOGETHER WITH INTEREST
15 FROM 12 MIDNIGHT ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE
16 TERMINATION OF EMPLOYMENT TO THE DATE OF THE TRANSFER UNDER THIS
17 SUBSECTION, BASED UPON 8% EFFECTIVE ANNUAL INTEREST, COMPOUNDED
18 ANNUALLY.

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

26 (7) ~~-(5)-~~ For the purposes of subsections (1) to ~~-(4)-~~ (6),
27 the calculation of estimated and actual present value of the

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

12 (8) ~~(6)~~ For a former nonvested member who elects to termi-
13 nate membership in Tier 1 under section 701(2) and who has accu-
14 mulated contributions standing to his or her credit in the
15 reserve for member contributions, the retirement system shall
16 direct the state treasurer to transfer a lump sum amount from the
17 reserve for member contributions created under section 210 to the
18 qualified participant's account in Tier 2 on or before the expi-
19 ration of 60 days after the date of the individual's election to
20 terminate membership. The retirement system shall calculate the
21 amount to be transferred, which shall be equal to the sum of the
22 following:

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

1 (b) Interest on any amounts determined in subdivision (a),
2 from the first day of the payroll period immediately following
3 the date of the election to the date of the transfer, based upon
4 8% effective annual interest, compounded annually.

5 (9) ~~(7)~~ If the department of management and budget
6 receives notification from the United States internal revenue
7 service that this section or any portion of this section will
8 cause the retirement system to be disqualified for tax purposes
9 under the internal revenue code, then the portion that will cause
10 the disqualification does not apply.

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

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

16 (3) "Health benefit dependent" means the qualified or former
17 qualified participant's spouse, if any, and an unmarried child
18 who is considered a dependent of the qualified or former quali-
19 fied participant under section 152 of the internal revenue code,
20 if any.

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

24 (a) An individual who first becomes a judge or state offi-
25 cial on or after March 31, 1997, and who ~~before March 31, 1997~~
26 ~~would have been eligible~~ DOES NOT ELECT to be a member of Tier 1
27 UNDER SECTION 707A.

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

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

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

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

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

15 (4) ~~-(3)-~~ "State treasurer" means the treasurer of this
16 state.

17 SEC. 707A. (1) AN INDIVIDUAL WHO FIRST BECOMES A JUDGE OR
18 STATE OFFICIAL ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION
19 SHALL ELECT IN WRITING TO BECOME A MEMBER OF TIER 1 OR TO BECOME
20 A QUALIFIED PARTICIPANT IN TIER 2 WITHIN 30 DAYS OF HIS OR HER
21 EMPLOYMENT. AN ELECTION MADE BY AN INDIVIDUAL UNDER THIS SUBSEC-
22 TION IS IRREVOCABLE. AN INDIVIDUAL WHO DOES NOT MAKE A WRITTEN
23 ELECTION OR WHO DOES NOT FILE THE ELECTION DURING THE PERIOD
24 SPECIFIED IN THIS SUBSECTION IS CONSIDERED TO HAVE ELECTED TO
25 BECOME A MEMBER OF TIER 1.

26 (2) THE RETIREMENT SYSTEM SHALL PROVIDE AN OPPORTUNITY FOR
27 EACH QUALIFIED PARTICIPANT WHO IS A QUALIFIED PARTICIPANT ON THE

1 EFFECTIVE DATE OF THIS SECTION TO ELECT IN WRITING TO TERMINATE
2 PARTICIPATION IN TIER 2 AND ELECT TO BECOME A MEMBER IN TIER 1.
3 AN ELECTION MADE BY A QUALIFIED PARTICIPANT UNDER THIS SUBSECTION
4 IS IRREVOCABLE. THE RETIREMENT SYSTEM SHALL ACCEPT WRITTEN ELEC-
5 TIONS UNDER THIS SUBSECTION FROM QUALIFIED PARTICIPANTS DURING
6 THE PERIOD BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION AND
7 ENDING UPON THE EXPIRATION OF 60 DAYS AFTER THE EFFECTIVE DATE OF
8 THIS SECTION. A QUALIFIED PARTICIPANT WHO DOES NOT MAKE A WRIT-
9 TEN ELECTION OR WHO DOES NOT FILE THE ELECTION DURING THE PERIOD
10 SPECIFIED IN THIS SUBSECTION CONTINUES TO BE A QUALIFIED PARTICI-
11 PANT OF TIER 2. A QUALIFIED PARTICIPANT WHO MAKES AND FILES A
12 WRITTEN ELECTION UNDER THIS SUBSECTION ELECTS TO DO ALL OF THE
13 FOLLOWING:

14 (A) CEASE TO BE A MEMBER OF TIER 2 EFFECTIVE 12 MIDNIGHT ON
15 THE DAY BEFORE THE FIRST DAY OF THE PAYROLL PERIOD THAT FOLLOWS
16 THE EXPIRATION OF 90 DAYS AFTER THE EFFECTIVE DATE OF THIS
17 SECTION.

18 (B) BECOME A MEMBER OF TIER 1 EFFECTIVE 12:01 A.M. ON THE
19 FIRST DAY OF THE PAYROLL PERIOD DESCRIBED IN SUBDIVISION (A).

20 (C) WAIVE ALL OF HIS OR HER RIGHTS TO A BENEFIT UNDER TIER 2
21 ON THE DATE HE OR SHE BECOMES A MEMBER OF TIER 1.

22 (3) AFTER CONSULTATION WITH THE RETIREMENT SYSTEM'S ACTUARY
23 AND THE RETIREMENT BOARD, THE DEPARTMENT OF MANAGEMENT AND BUDGET
24 SHALL DETERMINE THE METHOD BY WHICH AN INDIVIDUAL SHALL MAKE A
25 WRITTEN ELECTION UNDER THIS SECTION. IF THE INDIVIDUAL IS MAR-
26 RIED AT THE TIME OF THE ELECTION, THE ELECTION IS NOT EFFECTIVE
27 UNLESS THE ELECTION IS SIGNED BY THE INDIVIDUAL'S SPOUSE.

1 HOWEVER, THE RETIREMENT BOARD MAY WAIVE THIS REQUIREMENT IF THE
2 SPOUSE'S SIGNATURE CANNOT BE OBTAINED BECAUSE OF EXTENUATING
3 CIRCUMSTANCES.

4 (4) AN ELECTION UNDER THIS SECTION IS SUBJECT TO THE ELIGI-
5 BLE DOMESTIC RELATIONS ORDER ACT, 1991 PA 46, MCL 38.1701 TO
6 38.1711.

7 (5) IF THE DEPARTMENT OF MANAGEMENT AND BUDGET RECEIVES
8 NOTIFICATION FROM THE UNITED STATES INTERNAL REVENUE SERVICE THAT
9 THIS SECTION OR ANY PORTION OF THIS SECTION WILL CAUSE THE
10 RETIREMENT SYSTEM TO BE DISQUALIFIED FOR TAX PURPOSES UNDER THE
11 INTERNAL REVENUE CODE, THEN THE PORTION THAT WILL CAUSE THE DIS-
12 QUALIFICATION DOES NOT APPLY.

13 (6) FOR A QUALIFIED PARTICIPANT WHO ELECTS TO TERMINATE PAR-
14 TICIPATION IN TIER 2 UNDER SUBSECTION (2), THE RETIREMENT SYSTEM
15 SHALL DIRECT THE STATE TREASURER TO TRANSFER THE QUALIFIED
16 PARTICIPANT'S ACCUMULATED BALANCE TO THE APPROPRIATE RESERVE CRE-
17 ATED UNDER THIS ACT ON OR BEFORE THE EXPIRATION OF 120 DAYS AFTER
18 THE EFFECTIVE DATE OF THIS SECTION. THE RETIREMENT SYSTEM SHALL
19 CALCULATE THE AMOUNT TO BE TRANSFERRED, WHICH SHALL BE EQUAL TO
20 THE SUM OF THE FOLLOWING:

21 (A) THE PORTION OF THE PARTICIPANT'S ACCUMULATED BALANCE
22 ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS AND EARNINGS ON THOSE CON-
23 TRIBUTIONS, IF ANY, AS OF THE DAY OF TRANSFER, TO THE RESERVE FOR
24 MEMBER CONTRIBUTIONS.

25 (B) THE PORTION OF THE PARTICIPANT'S ACCUMULATED BALANCE
26 ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS AND EARNINGS ON THOSE

1 CONTRIBUTIONS, IF ANY, AS OF THE DAY OF TRANSFER, TO THE RESERVE
2 FOR EMPLOYER CONTRIBUTIONS.

3 Sec. 711. (1) A qualified participant shall not participate
4 in any other public sector retirement benefits plan for simulta-
5 neous service rendered to the same public sector employer. THIS
6 SUBSECTION DOES NOT APPLY TO A QUALIFIED PARTICIPANT WHO MAKES
7 THE ELECTION UNDER SECTION 701A(1)(B) FOR THAT PORTION OF HIS OR
8 HER COMPENSATION THAT IS NOT CONSIDERED SALARY FOR THE PURPOSES
9 OF TIER 2. Except as otherwise provided in this act, ~~or by the~~
10 ~~state treasurer,~~ this section does not prohibit a qualified par-
11 ticipant from participating in a retirement plan established
12 UNDER THE INTERNAL REVENUE CODE by this state or other public
13 sector employer. ~~under the internal revenue code.~~

14 (2) A QUALIFIED PARTICIPANT CONSENTS AS A CONDITION OF PAR-
15 TICIPATION IN TIER 2 THAT HE OR SHE SHALL NOT RECEIVE A RETIRE-
16 MENT ALLOWANCE OR OTHER BENEFIT FROM ANY OTHER PUBLIC SECTOR
17 RETIREMENT BENEFITS PLAN WHILE HOLDING THE POSITION THAT QUALI-
18 FIES HIM OR HER FOR PARTICIPATION IN TIER 2 AND THE OTHER PLAN.
19 A QUALIFIED PARTICIPANT WHO RECEIVES A RETIREMENT ALLOWANCE IN
20 VIOLATION OF THIS SUBSECTION FORFEITS HIS OR HER RIGHT TO
21 EMPLOYER CONTRIBUTIONS UNDER SECTION 714. THE EMPLOYER OF A
22 QUALIFIED PARTICIPANT WHO VIOLATES THIS SUBSECTION SHALL IMMEDI-
23 ATELY SUSPEND EMPLOYER CONTRIBUTIONS UNDER SECTION 714. A QUALI-
24 FIED PARTICIPANT WHO IS A CONTRIBUTING MEMBER IN A LOCAL PUBLIC
25 SECTOR RETIREMENT BENEFITS PLAN ON THE DAY BEFORE HE OR SHE
26 BECOMES A QUALIFIED PARTICIPANT IN TIER 2 AND WHO DOES NOT HAVE A
27 VESTED RIGHT TO A RETIREMENT BENEFIT UNDER THAT PLAN ON THAT DATE

1 MAY WITHDRAW THE CONTRIBUTIONS MADE BY THAT PARTICIPANT TO THE
2 LOCAL PLAN WITHOUT VIOLATING THIS SUBSECTION. THIS SUBSECTION
3 DOES NOT APPLY TO A FORMER QUALIFIED PARTICIPANT.

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

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

25 (2) A FORMER QUALIFIED PARTICIPANT OR BENEFICIARY OF A
26 DECEASED QUALIFIED PARTICIPANT WHO IS ELIGIBLE FOR A SUPPLEMENTAL
27 BENEFIT UNDER SUBSECTION (1) IS ELIGIBLE FOR HEALTH INSURANCE

1 COVERAGE UNDER SECTION 509 IN ALL RESPECTS AND UNDER THE SAME
2 TERMS AS WOULD BE A RETIRANT AND HIS OR HER BENEFICIARIES UNDER
3 TIER 1, BUT ONLY IF THE FORMER QUALIFIED PARTICIPANT OR DECEASED
4 QUALIFIED PARTICIPANT WOULD HAVE BEEN ELIGIBLE FOR HEALTH INSUR-
5 ANCE COVERAGE HAD HE OR SHE BEEN A MEMBER OF TIER 1.

6 Enacting section 1. This amendatory act does not take
7 effect unless House Bill No. 5807 of the 89th Legislature is
8 enacted into law.