THE JUDGES RETIREMENT ACT OF 1992

Act 234 of 1992

AN ACT to establish a judges retirement system; to provide for the administration and maintenance of the retirement system; to create a retirement board; to prescribe the powers and duties of the retirement board; to establish certain reserves for the retirement system; to establish certain funds; to prescribe the powers and duties of certain state departments and certain state and local officials and employees; to provide for certain disqualifications; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

The People of the State of Michigan enact:

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Article I

38.2101 Short title.

Sec. 101.

This act shall be known and may be cited as "the judges retirement act of 1992".

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2102 Meanings of words and phrases.

Sec. 102.

For the purposes of this act, the words and phrases defined in this article have the meanings ascribed to them in those sections.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2103 Definitions; A.

Sec. 103.

(1) "Accumulated contributions" means the balance standing to the member's credit in the reserve for member contributions. The balance includes member contributions and interest attributable to those contributions.

(2) "Active duty" means full-time duty in the armed forces other than active duty that is exclusively for training purposes.

(3) "Actuarial cost" means an amount that a member shall pay, except as otherwise specifically provided in this act, to purchase additional service credit under this act. Actuarial cost is determined and calculated as provided in section 215.

(4) "Actuarial funding requirement" means the sum of the contribution rates determined in section 301(2) and (3) multiplied by the aggregate annual compensation of active members.

(5) "Actuary" means the actuary of the retirement system as provided in section 205.

(6) "Aggregate annual compensation" means the sum of all compensation, as defined in section 104(1), paid annually to active members.

(7) "Armed forces" means the United States army, navy, marine corps, air force, and coast guard, including the reserve components.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2104 Definitions; C, D.

Sec. 104.

(1) "Compensation" means 1 of the following:

(a) For a plan 1 member or plan 2 member, the salary paid by this state.

(b) For a plan 3 member, the salary paid by this state, except that for a plan 3 member who is a judge of the recorder's court of the city of Detroit, compensation means an amount equal to the salary paid by this state to a judge of the circuit court and for a plan 3 member who is a judge of the probate court, compensation means an amount equal to the salary paid pursuant to section 821 of the revised judicature act of 1961, 1961 PA 236, MCL 600.821. In addition, compensation for a plan 3 member includes salary standardization payments converted as an addition to the state base salary as provided by section 504, if any, and the balance converted pursuant to section 504a, if any.

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

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

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

(2) "County retirement plan" means a county retirement plan established under section 12a of 1851 PA 156, MCL 46.12a.

(3) "Court fees" means a court filing fee or costs earmarked for the retirement system and collected by a county clerk, clerk of the circuit court, or clerk of the district court pursuant to sections 880, 2529, 5756, 8371, 8381, and 8420 of the revised judicature act of 1961, 1961 PA 236, MCL 600.880, 600.2529, 600.5756, 600.8371, 600.8381, and 600.8420.

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

(a) Service credited to a member under this act, the former judges retirement system, and the former probate judges retirement system.

(b) Other public service purchased under section 403.

(c) Service purchased under section 404.

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

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

(7) "Distributee" includes a member or vested former member. Distributee also includes the member's or vested former member's surviving spouse or the member's or vested former member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

(8) "District control unit" means district control unit as defined in section 8104 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8104.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1995, Act 193, Imd. Eff. Nov. 7, 1995 ;-- Am. 1999, Act 215, Eff. May 30, 2000

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38.2105 Definitions; E, F.

Sec. 105.

(1) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means 1 or more of the following:

(a) An individual retirement account described in section 408(a) of the internal revenue code, 26 USC 408.

(b) An individual retirement annuity described in section 408(b) of the internal revenue code, 26 USC 408.

(c) An annuity plan described in section 403(a) of the internal revenue code, 26 USC 403.

(d) A qualified trust described in section 401(a) of the internal revenue code, 26 USC 401.

(e) An annuity contract described in section 403(b) of the internal revenue code, 26 USC 403.

(f) An eligible plan under section 457(b) of the internal revenue code, 26 USC 457, that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and that separately accounts for amounts transferred into such eligible plan under section 457(b) of the internal revenue code, 26 USC 457, from this retirement system, that accepts the distributee's eligible rollover distribution.

(g) Beginning January 1, 2008, a Roth individual retirement account as described in section 408A of the internal revenue code, 26 USC 408A, subject to the rules that apply to rollovers from a traditional individual retirement account to a Roth individual retirement account.

(2) Beginning January 1, 2007, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code, 26 USC 401.

(d) The portion of any distribution that is not includable in federal gross income, except to the extent such portion of the distribution is paid to either of the following:

(i) An individual retirement account or annuity described in section 408(a) or 408(b) of the internal revenue code, 26 USC 408.

(ii) A qualified plan described in section 401(a) of the internal revenue code, 26 USC 401, or an annuity contract described in section 403(b) of the internal revenue code, 26 USC 403, and the plan providers agree to separately account for the amounts paid, including any portion of the distribution that is includable in federal gross income, and the portion of the distribution which is not so includable.

(3) "Executive secretary" means the executive secretary of the retirement system as provided in section 205.

(4) Except as otherwise provided in this subsection, "final compensation" means the annual rate of compensation for the calendar year of retirement. For a member who retires on January 1, final compensation means the annual rate of compensation for the calendar year immediately preceding the date of retirement. Final compensation does not include an amount that exceeds the maximum salary set forth for that particular member or vested former member in the revised judicature act, if applicable. For a member who is a judge and who performs judicial duties for a limited period or a specific assignment as authorized by the supreme court pursuant to section 23 of article VI of the state constitution of 1963, final

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compensation means the annual rate of compensation the member was being paid at the termination of his or her tenure in office as an elected judge.

(5) "Former elected official" means a member who held a state elective office before membership in this retirement system, the former judges retirement system, or the former probate judges retirement system.

(6) "Former judges retirement system" means the state of Michigan judges' retirement system created by former 1951 PA 198.

(7) "Former probate judges retirement system" means the state of Michigan probate judges retirement system created by former 1954 PA 165.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1995, Act 193, Imd. Eff. Nov. 7, 1995 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002 ;-- Am. 2008, Act 514, Imd. Eff. Jan. 13, 2009

38.2106 Definitions; I to M.

Sec. 106.

(1) "Interest" means the rate or rates of interest per annum, compounded annually, as determined by the retirement board.

(2) "Internal revenue code" means the United States internal revenue code of 1986.

(3) "Judge" means a duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of the circuit court, judge of the district court, judge of the probate court, or judge of the recorder's court of the city of Detroit.

(4) "Medical adviser" means the medical adviser of the retirement system as provided in section 205.

(5) "Member" means a judge or state official who is included in the membership of the retirement system as provided in section 401.

(6) "Membership service" means service performed as a member under this act or under the former judges retirement system or former probate judges retirement system.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1995, Act 193, Imd. Eff. Nov. 7, 1995

38.2107 Definitions; O.

Sec. 107.

(1) "Option A beneficiary" means the retirement allowance beneficiary designated by the member under section 506(1)(a).

(2) "Option B beneficiary" means the retirement allowance beneficiary designated by the member under section 506(1)(b).

(3) "Other public service" means any of the following services performed within this state by a member:

(a) Service as a former elected official who received an annual state salary for service performed in that office.

(b) Service as a municipal judge.

(c) Service as a justice of the peace in a governmental unit.

(d) Service as a referee of the traffic division of the recorder's court of the city of Detroit, but not to exceed more than 3 years of service.

(e) Service as a judge under the former judges retirement system or former probate judges retirement system if the member has not received credit for the service under this act.

(f) For a state official, state service.

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History: 1992, Act 234, Eff. Mar. 31, 1993

38.2108 Definitions; P.

Sec. 108.

(1) "Plan 1 member" means a member or vested former member who is or was the governor, lieutenant governor, secretary of state, attorney general, or legislative auditor general.

(2) "Plan 2 member" means a member or vested former member who is or was the constitutional court administrator, a justice of the supreme court, or a judge of the court of appeals.

(3) "Plan 3 member" means a member or vested former member who is or was a judge of the circuit court, judge of the recorder's court of the city of Detroit, judge of the district court, except a judge of the thirty-sixth district described in subsection (8), or a judge of the probate court, except a judge of the probate court described in subsection (7), (9), or (10).

(4) "Plan 3a member" means a member or vested former member described in subsection (3) who does not convert any of the salary standardization payment under section 504 or sections 14a and 14c of former 1951 PA 198.

(5) "Plan 3b member" means a member or vested former member described in subsection (3) who converts $2,250.00 of the salary standardization payment under section 504(1) or section 14a of former 1951 PA 198.

(6) "Plan 3c member" means a member or vested former member described in subsection (3) who converts the balance of the salary standardization payment under section 504(2) or section 504a or section 14c of former 1951 PA 198.

(7) "Plan 4 member" means a member or vested former member who is or was a judge of the probate court serving in a single county of less than 15,000 population.

(8) "Plan 5 member" means a member or vested former member who is or was a judge of the district court in the thirty-sixth district.

(9) "Plan 6 member" means a member who on the day before the effective date of this act was a member or vested former member of the former probate judges retirement system, who may be a member of a county retirement plan, and who is under the 3% benefit formula provided by section 16(l)(a), (b), and (c) of former 1954 PA 165.

(10) "Plan 7 member" means a member who on the day before the effective date of this act was a member or vested former member of the former probate judges retirement system, who is not a member of a county retirement plan, and who is under the 3.5% benefit formula provided by section 16(1)(d) of former 1954 PA 165.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1999, Act 215, Eff. May 30, 2000
Compiler's Notes: In subsection (9), the reference to “section 16(l)(a), (b), and (c)” evidently should read “section 16(1)(a), (b), and (c).”

38.2109 Definitions; R.

Sec. 109.

(1) "Refund beneficiary" means 1 or more persons whom the member, vested former member, or retirant nominates under section 405 for the purpose of being paid accumulated contributions in the event of the death of the member, vested former member, or retirant if a retirement allowance is not payable to a retirement allowance beneficiary.

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(2) "Reporting unit" means the unit of government responsible for reporting a member's compensation, contributions, and other information required by the retirement system. Reporting unit includes, but is not limited to, the state court administrator's office, the supreme court finance office, a county, a city, a district control unit, a local unit of government retirement plan, and a department of this state.

(3) "Retirant" means a member who retired with a retirement allowance payable from the reserves of the retirement system under this act, the former judges retirement system, or the former probate judges retirement system.

(4) "Retirement allowance" means a series of monthly payments to a retirant or retirement allowance beneficiary from the reserves of the retirement system.

(5) "Retirement allowance beneficiary" means a person who is being paid a retirement allowance from the reserves of the retirement system because of the death of a member, vested former member, or retirant under this act, the former judges retirement system, or the former probate judges retirement system.

(6) "Retirement board" means the Michigan judges retirement board created by section 202.

(7) "Retirement system" means the Michigan judges retirement system created by section 201.

(8) "Revised judicature act" means the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.101 to 600.9947 of the Michigan Compiled Laws.

History: 1992, Act 234, Eff. Mar. 31, 1993

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38.2110 Definitions; S.

Sec. 110.

(1) "Salary standardization payment" means the amount of money payable by this state to a county, a city, or a district control unit for supplemental salary paid to a judge, a portion of which a plan 3 member may convert under section 504 as additional compensation for the purpose of calculating a retirement allowance under this act.

(2) "Service" means service performed as a member of this retirement system, the former judges retirement system, the former probate judges retirement system, and other service purchased under sections 403 and 404.

(3) "State service" means service performed as a state employee that is creditable under the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.48 of the Michigan Compiled Laws.

(4) "State official" means the governor, lieutenant governor, secretary of state, attorney general, legislative auditor general, and constitutional court administrator.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2110a “Tier 1” and “Tier 2” defined.

Sec. 110a.

(1) "Tier 1" means the retirement plan available under this act to a member who first became a judge or state official before March 31, 1997 and who does not elect to become a qualified participant of Tier 2.

(2) "Tier 2" means the retirement plan established pursuant to the internal revenue code that is available to qualified participants under article VII.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

38.2111 Definitions; V.

Sec. 111.

"Vested former member" means a member who is entitled to a deferred vested service retirement allowance under section 502.

History: 1992, Act 234, Eff. Mar. 31, 1993

Article II

38.2201 Michigan judges retirement system; creation; purpose.

Sec. 201.

The Michigan judges retirement system is created for judges and state officials.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2202 Michigan judges retirement board; creation within department; membership; terms; vacancy; compensation and expenses.

Sec. 202.

(1) The Michigan judges retirement board is created in the department. The retirement board consists of the following 5 retirement board members:

(a) The state treasurer.

(b) The attorney general.

(c) One judge who is a member of the retirement system appointed by the governor with the advice and consent of the senate.

(d) Two members appointed by the governor with the advice and consent of the senate.

(2) Except as otherwise provided in this section, the term of office of appointed retirement board members is 4 years. If a vacancy occurs in the office of an appointed retirement board member, the governor, with the advice and consent of the senate, shall appoint a retirement board member for the remainder of the unexpired term. A retirement board member shall continue to hold office after the expiration of his or her term of office until a successor is appointed and is qualified.

(3) The legislature shall annually establish the per diem compensation of the appointed retirement board members and the schedule for reimbursement of expenses incurred by a retirement board member to attend meetings of the retirement board and to perform services required by the retirement board.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1999, Act 215, Eff. May 30, 2000
Compiler's Notes: For transfer of powers and duties of Judges retirement board to Michigan retirement board, and abolishment of judges retirement board, see E.R.O. No. 2015-4, compiled at MCL 38.1174.

38.2203 Retirement board member; oath; quorum; unexcused absences; election of chairperson and vice chairperson.

Sec. 203.

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(1) Each appointed retirement board member, before assuming office, shall take an oath of office. An appointed retirement board member shall immediately file the oath of office with the secretary of state. A retirement board member is a trustee of the retirement system.

(2) A majority of the retirement board constitutes a quorum for the transaction of business at a meeting of the retirement board. An appointed retirement board member who fails to attend 2 consecutive, regularly scheduled meetings of the retirement board and whose absence is not excused by the retirement board is considered to have resigned from retirement board membership. The retirement board shall declare the appointed retirement board member's office vacated as of the date of adoption of a proper resolution.

(3) The retirement board shall elect from its membership a chairperson and vice chairperson. The chairperson and vice chairperson of the retirement board shall take office immediately upon election and serve until a successor is elected.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2204 Retirement board; duties pursuant to MCL 16.101 to 16.608; rules; conducting business at public meeting; writings available to public.

Sec. 204.

(1) The retirement board has the rights, authority, and discretion in the proper discharge of retirement board duties pursuant to the executive organization act of 1965, Act No. 380 of the Public Acts of 1965, being sections 16.101 to 16.608 of the Michigan Compiled Laws.

(2) The retirement board may promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, for the implementation and administration of this act.

(3) The retirement board shall conduct its business at a public meeting of the retirement board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. The retirement board shall give public notice of a time, date, and place of a meeting of the retirement board in the manner required by Act No. 267 of the Public Acts of 1976.

(4) The retirement board shall make a writing prepared, owned, used, in the possession of, or retained by the retirement board in the performance of an official function available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2205 Management functions; director of bureau of retirement systems as executive secretary; employees.

Sec. 205.

The department shall be responsible for the budgeting, procurement, and related management functions of the retirement system. The director of the bureau of retirement systems in the department is the executive secretary of the retirement system. The executive secretary, with department approval, shall employ the services of an actuary and, subject to rules of the civil service commission, shall employ medical advisers, clerical, technical, and administrative employees the executive secretary considers necessary for the proper operation of the retirement system.

History: 1992, Act 234, Eff. Mar. 31, 1993

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38.2206 State treasurer as treasurer of retirement system; authority; duties.

Sec. 206.

(1) The state treasurer is the treasurer of the retirement system. The state treasurer has investment authority, including the custodianship of the funds of the retirement system, and has fiduciary responsibility with regard to the investment of funds of the retirement system. The state treasurer shall invest the funds of the retirement system in compliance with Act No. 314 of the Public Acts of 1965, being sections 38.1132 to 38.1140i of the Michigan Compiled Laws.

(2) The state treasurer shall deposit the funds of the retirement system in the same manner and subject to the laws governing the deposit of state funds by the state treasurer. The state treasurer shall credit income earned by the retirement system's reserves to the respective reserves under this act that earn the income as provided in section 213.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2207 Attorney general as retirement board attorney.

Sec. 207.

The attorney general is the legal adviser to the retirement board and shall act as the retirement board's attorney. The attorney general shall represent the retirement board in all litigation to which the retirement board is a party.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2208 Administration of retirement system.

Sec. 208.

The retirement system shall draw its warrants upon the state treasury, payable out of funds of the retirement system, for the payment of retirement allowances, accumulated contributions, and the payment of salaries and other expenses necessary in the administration of the retirement system.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2209 Annual report.

Sec. 209.

The retirement system shall prepare an annual report for each fiscal year. The annual report shall contain information regarding the financial, actuarial, and other activities of the retirement system during the fiscal year. The retirement system shall furnish a copy of the annual report to the governor, the legislature, each retirant, and each retirement allowance beneficiary, and to a member, vested former member, or any other person upon request.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2210 Reserve for member contributions.

Sec. 210.

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The reserve for member contributions is created. The retirement system shall deposit contributions from the compensation of members, and other member payments as provided in this act, except member contributions for health benefits as provided in section 305, in the reserve for member contributions. The retirement system shall provide for the maintenance of an individual account for each member showing the amount of the member's accumulated contributions. Except as provided in section 212, the retirement system shall pay accumulated contributions as provided in this act from the reserve for member contributions. If a person ceases to be a member, any unclaimed balance of accumulated contributions remain in the reserve for member contributions. If a member's accumulated contributions are forfeited by the member, as provided in this act, the retirement system shall transfer the forfeited accumulated contributions from the reserve for member contributions to the reserve for investment income. Upon the retirement of a member, the retirement system shall transfer the accumulated contributions of the member from the reserve for member contributions to the reserve for retirement benefits.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2211 Reserve for employer contributions.

Sec. 211.

The reserve for employer contributions is created. The retirement system shall credit to the reserve for employer contributions all court fees, late fees, and interest payments received pursuant to section 304; state appropriations received pursuant to section 302; and employer contributions received under section 303. The retirement system shall credit to the reserve for employer contributions any residual balance remaining in the reserve for investment income after crediting interest to the reserves created by this act and after satisfying any other requirements under this act. The retirement system shall transfer money into or out of the reserve for employer contributions as provided in section 212.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2212 Reserve for retirement benefits.

Sec. 212.

The reserve for retirement benefits is created. The retirement system shall pay all retirement allowances and residual accumulated contributions of deceased retirees from the reserve for retirement benefits. The retirement system shall credit to the reserve for retirement benefits a member's accumulated contributions at the time of retirement as provided in section 210. Each year following receipt of the annual actuarial valuation, the retirement system shall bring the balance in the reserve for retirement benefits into balance with the actuarial present value of retirement allowances in payment status by a transfer to or from the reserve for employer contributions. The actuary shall take into account the pending transfer when preparing the annual actuarial valuation.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2213 Reserve for investment income.

Sec. 213.

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(1) The reserve for investment income is created. The state treasurer shall credit to the reserve for investment income all interest, dividends, and other income from the investment of retirement system assets except for those of the reserve for health benefits created under section 214. The retirement system shall credit to the reserve for investment income all gifts and bequests to the retirement system; all forfeited contributions received pursuant to section 210; a surplus in any reserve created by this act except for those of the reserve for health benefits created under section 214; and all other money for which there is no specific disposition provided.

(2) Except as otherwise provided in this subsection, the retirement system shall annually credit interest on the preceding year balances in the reserve for member contributions, reserve for employer contributions, and the reserve for retirement benefits. However, the retirement system shall begin to calculate interest on member contributions made within a calendar year on the first day of the calendar year following the contribution and shall credit the interest on member contributions at the end of the calendar year. The retirement system shall charge the reserve for investment income the interest credited to the reserves under this subsection.

(3) The retirement system shall pay the expenses for the administration of the retirement system, exclusive of amounts payable as retirement allowances and other benefits provided in this act, from the reserve for investment income.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

38.2214 Reserve for health benefits.

Sec. 214.

The reserve for health benefits is created. The retirement system shall deposit into the reserve for health benefits the member contributions for health benefits required by section 305(1)(a), amounts transferred pursuant to section 217(1), and accumulated earnings on these amounts and contributions. The retirement system shall disburse from the reserve for health benefits the premiums for hospital and medical-surgical and sick care benefits as required by sections 509 and 719.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

***** 38.2214a THIS SECTION IS REPEALED BY ACT 215 OF 1999 EFFECTIVE ON THE DATE THE SETTLEMENT AGREEMENT IN THE CASE OF MICHIGAN JUDGES ASSN V TREASURER OF THE STATE OF MICHIGAN, CASE NO. 98-DT-72771-CV (ED MI), BECOMES OF NO FURTHER FORCE AND EFFECT, IS RENDERED NULL AND VOID, OR IS OTHERWISE TERMINATED *****

38.2214a Postretirement medical benefits.

Sec. 214a.

(1) Following the date of the determination described in subsection (11) and following the date of the election made under subsection (4), the retirement system shall provide postretirement medical benefits for eligible judges and their health benefit dependents and postdeath medical benefits for health benefit dependents who survive a deceased contributor. Medical benefits shall be provided from a separate account established under the retirement system pursuant to section 401(h) of the United States internal revenue code.

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(2) A separate account, designated as the "medical benefit account", shall be maintained within the reserve for health benefits. The assets of the retirement system in excess of the amounts then credited to the medical benefit account shall not be used for providing medical benefits under this section. Except as otherwise provided in this section, the assets of the retirement system attributable to amounts then credited to the medical benefit account shall not be used or diverted for any purpose other than providing medical benefits.

(3) A separate account, designated as the "medical benefit administrative account", shall be maintained within the reserve for health benefits. Administrative costs of maintaining the medical benefit account shall be paid out of the medical benefit administrative account. Eligible judges making contributions to the medical benefit account consent as a condition of participation that transfers may be made from the subaccounts of each contributor to the medical benefit administrative account equal to no more than 25% of the earnings of funds on account in their respective subaccounts.

(4) Upon becoming a member of Tier 1 or a qualified participant in Tier 2, and at such other times as the department shall permit, an eligible judge may elect to become a contributor and make contributions to the medical benefit account in an amount not to exceed the maximum contribution then permitted under subsection (5). Each eligible judge who is a member of Tier 1 or a qualified participant in Tier 2 may elect to make contributions to the medical benefit account during an election period of not less than 90 days as determined by the retirement system. Within the medical benefit account, the department shall maintain a subaccount for each contributor that reflects all contributions made by or for that contributor, adjusted for investment experience and payment of medical benefits. The employer of the contributor shall pick up the contributor's contributions in whole or in part and may require that its contributions be derived from a reduction in the contributor's cash salary. If the contributor's contributions are picked up by the employer on a salary-reduction basis, the contributor's election shall be irrevocable to the extent required by section 401(h) of the United States internal revenue code. Contributions picked up under this subsection on a salary-reduction basis are not included as gross taxable income of the contributor. The value of medical benefits provided from a contributor's subaccount shall not be included in the income of the retired contributor or the contributor's health benefit dependents.

(5) The benefits to be provided from the medical benefit account, together with life insurance, if any, provided under the retirement system, are intended to be subordinate to retirement benefits under the retirement system. Accordingly, contributions in calendar years after 1999 credited to a contributor's subaccount, together with contributions, if any, that may be made to provide life insurance for the contributor under the retirement system, shall not exceed an aggregate amount equal to 1/3 of the contributions, including employee contributions, made for those years to provide a retirement allowance for the contributor under Tier 1 or Tier 2 of the retirement system. For purposes of applying a limitation established by this subsection, the retirement system may rely on an actuarial certification prepared by the actuary, demonstrating compliance, and reasonable actuarial assumptions selected by the actuary shall apply for purposes of determining the aggregate contributions for retirement allowances to be determined under this subsection. The retirement system shall determine the method, timing, and limits applicable to all contributors. In no case shall a determination made by the retirement system exceed the maximum provided by this subsection.

(6) All payments or reimbursements of medical benefits shall be charged against the balance of the retired contributor's subaccount. Payments or reimbursements shall not be made after the subaccount has been exhausted. Medical benefits to be provided from the medical benefit account shall consist of any of the following as applicable:

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(a) Payment of premiums for the retired contributor and the contributor's health benefit dependents under the state health plan, the state dental plan, and the state vision plan if the contributor and dependents are enrolled in any of those plans.

(b) Payment or reimbursement of premiums or other charges for coverage of the retired contributor and the contributor's health benefit dependents under any group health plan within the meaning of section 5000(b)(1) of the United States internal revenue code.

(c) Payment or reimbursement of premiums or other charges to obtain health insurance coverage within the meaning of section 9832(b)(1) of the United States internal revenue code for the retired contributor and the contributor's health benefit dependents.

(d) Payment or reimbursement of expenses paid or incurred for the medical care, as defined in section 213(d)(1) of the United States internal revenue code, of the retired contributor and the contributor's health benefit dependents.

Payment or reimbursement of premiums, charges, and expenses shall be made only upon presentation of proper documentary evidence of amounts, dates of coverage or service, recipient of coverage or service, and such other information as the department shall require.

(7) While a contributor or retired contributor remains alive, the department shall comply with the contributor's written directions in regard to the type of medical benefits to be provided under this subsection and the allocation of the medical benefits among the retired contributor and the contributor's health benefit dependents if the directions comply with this subsection and the requirements of the department in regard to the form and content of the written directions. The department shall also afford each contributor the opportunity to give written directions in regard to the allocation of medical benefits to and among some or all of the contributor's surviving health benefit dependents following the contributor's death as designated on a beneficiary form developed by the retirement system. Upon death of the contributor and while funds remain in the contributor's subaccount, the department shall observe the written directions in allocating medical benefits among the contributor's surviving health benefit dependents, while giving the dependents or their legal representatives a reasonable opportunity to select the type of medical benefits to be provided. In the absence of valid written directions from the contributor in regard to the allocation of medical benefits following the contributor's death, the department shall allocate funds remaining in the contributor's subaccount to provide medical benefits to the contributor's surviving health benefit dependents, until all funds have been expended.

(8) If there is a balance remaining in the subaccount of a contributor or retired contributor following the deaths of the contributor and all of the contributor's health benefit dependents, then that balance shall be forfeited and distributed to the medical benefit administrative account.

(9) As used in this section:

(a) "Contributor" means an eligible judge who has elected to make contributions to the medical benefit account created under this section.

(b) "Eligible judge" means a judge of the circuit court, the district court, or the probate court.

(c) "Former member" means an individual who was a member and who terminates employment upon which his or her membership is based for any reason.

(d) "Retired contributor" means a contributor who becomes a former qualified participant and attains the benefit commencement age, or who becomes a former member who either attains age 60 or meets the membership requirements for a retirement allowance under section 501(1).

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(10) Contributions shall not be picked up by this state pursuant to this section until the department receives notification from the United States internal revenue service that such contributions will not be included as gross income of the contributor.

(11) This section does not apply until the department receives notification from the United States internal revenue service that the establishment of the medical benefit account under this section does not cause the retirement system to be disqualified for tax purposes.

History: Add. 1999, Act 215, Eff. May 30, 2000

38.2215 Determination of actuarial cost; establishing method; calculation.

Sec. 215.

The retirement board and the department shall establish the method of determining the actuarial cost. The actuary shall calculate the actuarial cost based upon the product of the following elements:

(a) A percentage that when multiplied by a member's compensation results in the average actuarial present value of the additional benefits resulting from the crediting of 1 additional year of service. The percentage may vary because of the member's age, credited service, or plan member classification or the retirement allowance beneficiary's age.

(b) A member's compensation.

(c) The number of years and fraction of a year of service a member elects to purchase up to the maximum, if any.

History: 1992, Act 234, Eff. Mar. 31, 1993

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38.2216 Compliance with reciprocal retirement act.

Sec. 216.

The retirement system shall comply with the reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, if a resolution electing to come under the provisions of the reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, is in effect.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

38.2217 Court fee fund; applicability of section.

Sec. 217.

(1) A court fee fund is created in the state treasury. The state treasurer shall deposit into the court fee fund all money received from the executive secretary pursuant to section 304(4). The state treasurer shall, if funds remain in the court fee fund after the transfer described in subsection (3), transmit a portion of the money in the court fee fund, not exceeding $2,200,000.00 in any fiscal year, to the court equity fund created by section 151b of the revised judicature act of 1961, 1961 PA 236, MCL 600.151b. If the court fee fund exceeds $2,200,000.00 in any fiscal year and $2,200,000.00 is transmitted to the court equity fund, an amount may be appropriated from the court fee fund for operational expenses of trial courts. Operational expenses may include the payment of salaries of trial court judges other than judges of the district court. Any money remaining in the court fee fund at the end of the fiscal year shall remain in the court fee fund and shall not revert to the general fund.

(2) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund described in section 6 of the public employee retirement benefit preservation act, the benefits that are required to be paid from that fund shall, to the extent permitted by applicable law, be paid from a portion of the money in the court fee fund and any earnings on those amounts or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund.

(3) The state treasurer shall, if funds remain in the court fee fund after the transfer described in subsection (2), transmit a portion of the money in the court fee fund and any earnings on those amounts to the reserve for health benefits created by section 214 to pay expected health care costs for the subsequent fiscal year that are not covered as a result of employee contributions under sections 305(1) and 714(6), and to pay, in an amount not to exceed $100,000.00 in each fiscal year, any health care costs not paid from the reserve for health benefits since fiscal year 1996-1997.

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

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1996, Act 525, Imd. Eff. Jan. 13, 1997 ;-- Am. 1998, Act 99, Imd. Eff. May 28, 1998 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

Compiler's Notes: In subsection (2), the reference to the "public employee retirement benefit preservation act" evidently should be a reference to the "public employee retirement benefit protection act," (MCL 38.1681 et seq.).

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Article III

38.2301 Actuary; duties.

Sec. 301.

(1) The retirement system shall direct the actuary to do all of the following:

(a) Determine the annual level percent of payroll contribution rate to finance the benefits provided under this act by actuarial valuation pursuant to subsections (2) and (3), and upon the basis of the risk assumptions that the retirement board and the department adopt after consultation with the state treasurer and the actuary.

(b) Make an annual actuarial valuation of the retirement system in order to determine the actuarial condition of the retirement system and the required contribution to the retirement system.

(c) Make an annual actuarial gain-loss experience study of the retirement system in order to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) The actuary shall compute the contribution rate for monthly benefits payable in the event of death of a member before retirement or the disability of a member using a terminal funding method of actuarial valuation.

(3) The actuary shall compute the contribution rate for benefits other than those described in subsection (2) using an individual projected benefit entry age normal actuarial cost method. The contribution rate for service that may be rendered in the current year, known as the normal cost contribution rate, is equal to the aggregate amount of individual entry age normal costs divided by l% of the aggregate amount of active members' valuation compensation. The contribution rate for unfunded service rendered on or before the last day of the fiscal year,

known as the unfunded actuarial accrued liability contribution rate, is equal to the aggregate amount of unfunded actuarial accrued liabilities divided by l% of the actuarial present value over a period not to exceed 40 years of projected benefit compensation, where unfunded actuarial accrued liabilities are equal to the actuarial present value of benefits reduced by the actuarial present value of future normal costs and the actuarial value of assets on the last day of the fiscal year.

History: 1992, Act 234, Eff. Mar. 31, 1993
Compiler's Notes: In subsection (3), the instances of "l%" were originally printed with the numeral "1" represented by the alphabet character "l" and evidently should read "1%."

38.2302 Annual appropriation; determination and certification of amount.

Sec. 302.

(1) Except as provided in subsection (2), the legislature shall annually appropriate to the retirement system the amount determined under subsection (2) in order to fund the retirement system on an estimated basis for the fiscal year for which the appropriation is made. The legislature shall annually appropriate to the retirement system the amount determined under subsection (3) in order to reconcile the estimated appropriation made in the previous fiscal year with the actual appropriation needed to adequately fund the retirement system for the previous fiscal year.

(2) The legislature shall annually appropriate to the retirement system an amount equal to 3.5% of the aggregate annual compensation or the difference between the sum of the contribution rates determined under section 301(2) and (3) multiplied by the aggregate annual compensation and the estimated revenue from court fees under section 304, whichever is greater. The department shall submit the amount determined under this subsection in the executive budget to the legislature for appropriation in the next fiscal year. If the department receives notification from the United States internal revenue service that this subsection will cause the retirement system to be disqualified for tax purposes under the internal revenue code, this subsection does not apply and subsection (4) applies.

(3) Not later than 60 days after the termination of each state fiscal year, the bureau of retirement systems shall certify to the director of the department the actual aggregate annual compensation paid to all active members during the preceding state fiscal year and the difference, if any, between the actual actuarial funding requirement and the sum of the actual revenue received by the retirement system during the preceding fiscal year from the appropriation pursuant to subsection (2) or (4), whichever is applicable, employer contributions pursuant to section 303, court filing fees pursuant to section 304, and mandatory member contributions pursuant to section 305. The department shall submit the amount determined under this subsection in the executive budget to the legislature for appropriation in the next fiscal year.

(4) If applicable, the bureau of retirement systems in the department shall certify to the director of the department an amount equal to the difference between the estimated actuarial funding requirement for the next fiscal year and the sum of the estimated revenue to be received by the retirement system during the next fiscal year from employer contributions pursuant to section 303, court fees pursuant to section 304, and mandatory member contributions pursuant to section 305. The department shall submit the amount determined under this subsection in the executive budget to the legislature for appropriation in the next fiscal year.

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History: 1992, Act 234, Eff. Mar. 31, 1993

38.2303 Thirty-sixth district court; annual contribution; amount; plan 3b or 3c member supplemental salary payment.

Sec. 303.

(l) The reporting unit for the district court in the thirty-sixth district shall contribute annually to the retirement system for each member who is a judge of the thirty-sixth district court an amount equal to the product of the total annual additional salary paid to the member pursuant to section 8202 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.8202 of the Michigan Compiled Laws, and the annual level percent of payroll contribution rate determined under section 301. The supreme court shall subtract the figure calculated in this subsection from the salary standardization payment paid to the reporting unit for the thirty-sixth district, prorated on the basis of the frequency with which this state makes salary standardization payments to the reporting unit.

(2) The reporting unit that pays a plan 3b member's or a plan 3c member's supplemental salary shall contribute annually to the retirement system an amount equal to the product of $2,250.00 of the state salary standardization payment and the annual level percent required to fund the retirement system. The supreme court shall subtract the figure calculated in this subsection from the salary standardization payment paid to the reporting unit that pays the judge's salary prorated on the basis of the frequency with which this state makes salary standardization payments to the reporting unit that pays the judge's supplemental salary.

History: 1992, Act 234, Eff. Mar. 31, 1993

***** 38.2304 SUBSECTION (4) MAY NOT APPLY: See (4) of 38.2304 *****

38.2304 Deposit of court fees, late fees, and interest payments.

Sec. 304.

(1) Except as provided in subsection (4), the retirement system shall transmit all court fees received by the executive secretary and all late fees and interest payments received under this section to the state treasurer for deposit in the reserve for employer contributions where these assets and earnings on these assets shall be treated as pension assets.

(2) The retirement board may periodically establish a late fee and interest rate for all court fees that are not submitted to the executive secretary as prescribed in subsection (3). The retirement board shall establish a late fee of $50.00 or more and an interest rate of 12% or more per year for a late transmittal of court fees.

(3) If the county treasurer, clerk of the circuit court, or clerk of the district court fails to transmit to the executive secretary all court fees by the twentieth day of the month following the month in which they are collected under the revised judicature act, the retirement system shall assess a late fee for each late transmittal and an interest payment for each day the transmittal is late. Upon written notice from the executive secretary to the director of the supreme court finance office, the state treasurer shall withhold payment of the amount due under this section for late court fees, late fees, and interest payments from the salary standardization payment payable to a county or district control unit that fails to make timely court fee transmittals as required by this section.

(4) When the retirement system determines that the amount of court fees deposited into the reserve for employer contributions under subsection (1) equals the amount needed in addition

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to other publicly financed contributions to sustain the required level of publicly financed contributions, based upon the most recent actuarial valuation available at the beginning of the applicable fiscal year, the executive secretary shall transmit to the state treasurer the remainder of the court fees received during the fiscal year for deposit into the court fee fund created by section 217 where these assets and any earnings on these assets shall not be treated as pension assets for any purpose. This subsection applies unless the department receives notification from the United States internal revenue service that this subsection will cause the retirement system to be disqualified for tax purposes under the internal revenue code.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

38.2305 Contributions; plan member classification; manner of payment; withholding payment to county or district control unit for contributions not received within 60 days.

Sec. 305.

(1) Each member, upon taking office and so long as he or she remains in office, shall make contributions to the retirement system according to the applicable plan member classification as follows:

(a) A plan 1 member or a plan 2 member shall contribute 5% of the member's compensation. From this contribution, the retirement system shall deposit an amount equal to 2.0% of the member's compensation into the reserve for health benefits for hospital and medical-surgical and sick care benefits as provided in section 509.

(b) A plan 3a member, a plan 3b member, or a plan 5 member shall contribute 3.5% of the member's compensation.

(c) A plan 3c member, a plan 4 member, a plan 6 member, or a plan 7 member shall contribute 7% of the member's compensation. However, a plan 6 member shall not contribute more than $980.00 annually.

(2) The retirement board shall determine the manner in which member contributions are paid. Except as otherwise provided in this section, the retirement system shall credit member contributions when received to the reserve for member contributions.

(3) Upon written notice from the executive secretary to the state court administrator, the state treasurer shall withhold payment of the amount due from the salary standardization payment payable to a county or district control unit for member contributions that are not received by the retirement system within 60 days after the due date.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

38.2306 Member contributions picked up by state; tax treatment; contributions picked up by employer of judge in Detroit recorder's court, thirty-sixth district court, or probate court or by resolution or act of governing body; contributions picked up by state pursuant to MCL 38.2402, MCL 38.2403, or MCL 38.2404.

Sec. 306.

(1) This state shall pick up member contributions required by section 305 for all compensation paid after December 31, 1982, for members who receive a salary paid by this state. Contributions picked up are treated as employer contributions in determining tax treatment under the internal revenue code. Contributions picked up under this subsection are not included as gross taxable income of the member until disbursement from the retirement system. This state shall pay picked up member contributions from the same source of funds

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that is used for paying compensation to the member. This state shall pick up member contributions by either a reduction in the member's cash salary, an offset against a future salary increase, or a combination of a reduction in cash salary and an offset against a future salary increase. Member contributions picked up are treated for all purposes in the same manner and to the same extent as member contributions made on or before December 31, 1982.

(2) The employer of a member who is a judge of the recorder's court of the city of Detroit, of the district court in the thirty-sixth district, or of the probate court, by resolution or other enabling act of the governing body, may pick up the contributions required by section 305 for all compensation paid after December 31, 1982, and reported to the retirement system. If the employer does not pick up the contributions, the employer shall continue to deduct the amount that could have been picked up under this subsection from the member's compensation. Contributions picked up are treated as employer contributions in determining tax treatment under the internal revenue code. Contributions picked up under this subsection are not included as gross taxable income of the member until disbursement from the retirement system. The employer shall pay member contributions picked up by the employer from the same source of funds that is used for paying compensation to the member. The employer may pick up these contributions by either a reduction in the member's cash salary, an offset against a future salary increase, or a combination of a reduction in cash salary and an offset against a future salary increase. Member contributions picked up are treated for all purposes in the same manner and to the same extent as member contributions made before the date picked up.

(3) This state shall pick up member contributions required as a result of a member's repaying the member's previously withdrawn accumulated contributions, plus interest, pursuant to section 402(3)(b), or a member's election to purchase service credits pursuant to section 403 or 404. Subsection (1) applies with respect to these contributions. The department shall determine the manner in which such contributions are paid. This subsection does not apply until the department receives notification from the united States internal revenue service that contributions picked up by this state pursuant to this subsection shall not be included as gross income of the member until they are distributed or made available to the member, retirant, retirement allowance beneficiary, or refund beneficiary.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1999, Act 215, Eff. May 30, 2000

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38.2307 Disposition of unclaimed retirement allowance or money payable on separation or death.

Sec. 307.

Upon the separation from service by a member or upon the death of a retirant, a retirement allowance beneficiary, or a refund beneficiary, any unclaimed retirement allowance or other money otherwise payable on account of the separation or death remains a part of the reserve in which it is deposited until claimed by the separated member, retirement allowance beneficiary, refund beneficiary, or the estate or legal representative of a separated member, retirement allowance beneficiary, or refund beneficiary.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2308 Offsetting benefits against amounts owed; forfeiture of service credit for transfer to federal agency; rights subject to public employee retirement benefit protection act.

Sec. 308.

(1) The retirement system may offset retirement benefits or refunds payable under this act against amounts owed to the retirement system by a member, vested former member, retirant, retirement allowance beneficiary, or refund beneficiary.

(2) If the retirement system is required by the federal government pursuant to a court order to transmit a part of a member's accumulated contributions to a federal agency, the service credit that is covered by the payment shall be forfeited in the same manner as if the employee had requested and been paid a refund of the member's most recent contributions.

(3) The right of a person to a retirement allowance, to the return of accumulated contributions, to an optional benefit, to any other right accrued or accruing to a member or beneficiary under this act, and to the money belonging to the retirement system is subject to the public employee retirement benefit protection act.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

Article IV

38.2401 Retirement system; members; membership form; conditions for ceasing membership.

Sec. 401.

(1) Each of the following is a member of the retirement system:

(a) A person who is duly elected or appointed as a judge or state official on or after the effective date of this act, unless within 30 days from taking office the judge or state official files a written notice not to participate in the retirement system with the retirement system.

(b) A person who was a member of the former judges retirement system or former probate judges retirement system on the day before the effective date of this act and who remains a judge or state official on and after the effective date of this act.

(c) A person, other than a retirant, who is authorized by the supreme court to perform judicial duties for a limited period or a specific assignment pursuant to section 23 of article VI of the state constitution of 1963 and who performs at least 20 days of service in a 30-consecutive day period.

(2) A judge or state official who becomes a member under subsection (1)(a) shall complete a membership form furnished by the retirement system and shall forward the form to the retirement system within 30 days of taking office. A judge or state official, upon becoming a member, is considered to have agreed that in the event of adjudication of the member's mental incompetency, a guardian, if appointed, has the power and authority to complete and execute the necessary application forms to retire the member as provided in section 507. In all cases of doubt, the retirement board shall decide the membership status of a judge or state official.

(3) The membership of a judge or state official in the retirement system ceases when the member retires, when the members forfeits his or her membership under the provisions of section 507, at the end of the judicial term in which the member who is a judge attains age 70, or upon ceasing to be a judge or state official unless the person is a vested former member.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2401a Exclusion from Tier 1; eligibility as qualified participant in Tier 2.

Sec. 401a.

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

(a) An individual who first becomes a judge or state official on or after March 31, 1997.

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

(2) An individual who first becomes a judge or state official on or after March 31, 1997 is eligible to be a qualified participant in Tier 2 subject to article VII.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1999, Act 215, Eff. May 30, 2000 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

38.2402 Retirement board; determining service credits; forfeiture; reinstatement; service credit for limited period or specific assignment.

Sec. 402.

(1) The retirement board shall credit each member with the number of years and months of service for which the member performed service as a judge or state official. The retirement board shall credit service for the month in which the member's retirement becomes effective if the member retires from service before the end of the month and the member terminates his or her service after the fifteenth of the month. Except as provided in subsection (4), the retirement board shall not credit service for any month for which a member receives less than 1 month's salary. The retirement board shall not credit more than 1/12 of a year of service for all service rendered in a 30-consecutive day period. After a member who is a judge attains age 70, the retirement board shall not credit service after the end of the term in which the judge attains age 70.

(2) A member's credited service is forfeited at the time his or her membership terminates, except upon becoming a retirant or as provided in section 502.

(3) The retirement system shall reinstate credited service forfeited because of a break in membership in the member's service account if all of the following conditions are satisfied:

(a) The person, upon return to membership, acquires 6 months or more of credited service performed as a member of this retirement system subsequent to the break in service that caused the forfeiture.

(b) The member pays to the retirement system all accumulated contributions previously paid to the member, plus interest from the date of payment to the member to the date of repayment to the retirement system.

(4) Except as provided in this subsection and subject to the requirements of this subsection, the retirement system shall grant credited service to the same extent as provided in subsection (1) to a member who is serving as a judge for a limited period or a specific assignment as authorized by the supreme court pursuant to section 23 of article VI of the state constitution of 1963. The retirement system shall grant 1/12 of a year of credited service for a 30-consecutive day period in which a member described in this subsection performs service and receives a salary under the following circumstances:

(a) The member performs service for at least 20 days in the 30-consecutive day period.

(b) The member receives a salary that is not less than the pro rata of the state base salary for the court in which the service is performed.

History: 1992, Act 234, Eff. Mar. 31, 1993

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38.2403 Election to purchase other public service credit; request; documentation; payment of actuarial cost; basis for calculating service credit.

Sec. 403.

(1) A member who has 4 or more years of membership service may elect to purchase service credit for other public service by filing a request with the retirement system. The member shall provide documentation of the other public service and shall pay into the reserve for member contributions the actuarial cost. The member shall relinquish for himself or herself and his or her beneficiaries all rights in and to a pension or annuity payable from another retirement system for the same period of service purchased under this section.

(2) The retirement system shall calculate the amount of service credit for other public service under subsection (1) on the same basis as provided in section 402(1).

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2404 Election to purchase active duty service credit; request; documentation; payment to reserve; basis for calculating service credit.

Sec. 404.

(1) A member who has 12 or more years of credited service may elect to purchase not more than 2 years of service credit for active duty by filing a request with the retirement system. The member shall provide documentation of the active duty and shall pay into the reserve for member contributions an amount equal to 5% of the member's annualized rate of compensation at the time payment is made multiplied by the number of years and months of active duty service that the member elects to purchase up to the maximum. The member shall relinquish for himself or herself and his or her beneficiaries all rights in and to a pension or annuity payable from another retirement system for the same period of service purchased under this section.

(2) The retirement system shall calculate the amount of service credit for active duty under subsection (1) on the same basis as provided in section 402(1).

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2405 Accumulated contributions; payment to person ceasing to be member; payment to refund beneficiary before retirement allowance is payable; payment to refund beneficiary if retirant and option A beneficiary, option B beneficiary, or spouse dies; nomination of refund beneficiary.

Sec. 405.

(1) Except as otherwise provided in this act, if a person ceases to be a member before satisfying the age and service requirements for a retirement allowance under section 501 or 501b, the retirement system shall pay to the person his or her accumulated contributions upon request.

(2) If a member dies and a retirement allowance is not or will not become payable on account of the member's death, the retirement system shall pay the deceased member's accumulated contributions at the time of death to the refund beneficiary. If a refund beneficiary is not nominated or the refund beneficiary fails to survive the deceased member, the retirement system shall pay the deceased member's accumulated contributions to the deceased member's estate or legal representative.

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(3) If a retirant and his or her option A beneficiary, option B beneficiary, or spouse, if applicable, dies before an aggregate amount of retirement allowance equal to the deceased retirant's accumulated contributions at the time of retirement has been paid, the retirement system shall pay the difference between the deceased retirant's accumulated contributions and the aggregate amount of retirement allowance paid to the deceased retirant's refund beneficiary. If a refund beneficiary is not nominated or the refund beneficiary fails to survive the retirant and his or her option A beneficiary, option B beneficiary, or spouse, the retirement system shall pay the difference to the estate or legal representative of the last to die of the retirant or his or her option A beneficiary, option B beneficiary, or spouse.

(4) A judge or state official who becomes a member under section 401(1)(a) may nominate a refund beneficiary in the membership form under section 401 or a member, vested former member, or retirant may nominate a refund beneficiary in a nominating form furnished by the retirement system. A member, vested former member, or retirant shall file the nominating form with the retirement system, which form is not valid until received by the retirement system. The member or retirant may nominate a different refund beneficiary by delivering a new nominating form to the retirement system. The retirement system shall disregard the nomination of a refund beneficiary in the membership form and all nominating forms previously filed by a member or retirant upon receipt of a more recent nominating form under this subsection.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

38.2406 Retirant authorized by supreme court to perform judicial duties for limited period or specific assignment; retirant elected or appointed by governor as judge or state official.

Sec. 406.

(1) If a retirant is authorized by the supreme court to perform judicial duties for a limited period or a specific assignment pursuant to section 23 of article VI of the state constitution of 1963, the retirement system shall continue payment of his or her retirement allowance without change in amount or conditions. A retirant is not a member during the period he or she performs judicial duties for a limited period or a specific assignment as authorized by the supreme court pursuant to section 23 of article VI of the state constitution of 1963.

(2) If a retirant is elected or appointed by the governor as a judge or state official, the retirement system shall suspend payment of the retirant's retirement allowance during the period he or she remains in office. The retirement system shall base the suspension of benefits on 1/12 of the annual retirement benefit for each month the retirant serves in the office to which he or she was elected or appointed. A retirant who is again elected as a judge or state official is a member pursuant to section 401. The retirement system shall recalculate the retirement allowance of a retirant who again becomes a member under this subsection if the member leaves office due to disability or death, or if the member again retires after serving 1 full term or more in office. A retirement allowance recalculated pursuant to this subsection is subject to section 503. The retirement system shall begin payment of the recalculated retirement allowance under this subsection to a person who again retires effective the first of the month following the month in which the person leaves office. If a retirant again becomes a member under this subsection but is not entitled to have his or her retirement allowance recalculated under this subsection, the retirement system shall begin payment of his or her retirement allowance without change in amount or conditions effective the first of the month following the month in which the person leaves office.

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History: 1992, Act 234, Eff. Mar. 31, 1993

Article V

38.2501 Retirement allowance; requirements; application; form; retirement date; beginning payment.

Sec. 501.

(1) A member or vested former member who has 4 or more years of membership service and who meets 1 or more of the following requirements, except as otherwise provided in this subsection, is entitled to a retirement allowance computed under section 503:

(a) The member or vested former member is 60 years of age or older and has 8 or more years of credited service.

(b) The member or vested former member is 55 years of age or older and has 18 or more years of credited service of which the last 6 years are continuous service.

(c) The member or vested former member has 25 or more years of credited service of which the last 6 years are continuous service.

(d) The member or vested former member is 55 years of age or older but less than 60 years of age and has 12 or more, but less than 18, years of credited service, of which the last 6 years are continuous service. However, the retirement system shall permanently reduce the retirement allowance calculated under section 503 for a member who meets the requirements of this subdivision by the early retirement reduction percentage, which is 0.5% for each month, and fraction of a month, from the effective date of the member's retirement to the date of the member's sixtieth birthday.

(e) The member or vested former member is 60 years of age or older and has served 2 full terms in the office of governor, lieutenant governor, secretary of state, attorney general, or 1 full term in the office of legislative auditor general.

(2) A member or vested former member who meets or will meet the requirements of subsection (1) may retire by filing a written application with the retirement system on a form furnished by the retirement system. The member or vested former member shall state a date in the application on which he or she wishes to retire that is on or after the date the member or vested former member meets the requirements under subsection (1) and that is 30 days or more after the date the application is filed with the retirement system.

(3) The retirement system shall begin payment of the retirement allowance payable to a member or vested former member who retires under this section on the first day of the month after termination of service or the first day of the month that is 30 days or more after the application is filed with the retirement system, whichever is later. The retirement system shall pay a full month's retirement allowance for the month in which a retirant or retirement allowance beneficiary ceases to be eligible for continuation of benefits.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2501a Early retirement benefits act; system subject to regulation.

Sec. 501a.

This retirement system is subject to the regulation of early retirement benefits act.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

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38.2502 Vested former member; entitlement to deferred vested service retirement allowance; forfeiture.

Sec. 502.

A member who leaves office for a reason other than the member's retirement or death, who does not withdraw accumulated contributions, and who satisfies the service or term of office requirements of section 501(1) is a vested former member. Subject to section 501, a vested former member is entitled to a deferred vested service retirement allowance computed pursuant to section 503 or, if applicable, section 13a of former Act No. 198 of the Public Acts of 1951 or section 15 of former Act No. 165 of the Public Acts of 1954, as in effect at the time of termination of the vested former member's tenure in office. The vested former member shall forfeit his or her entitlement to a deferred vested service retirement allowance if the vested former member withdraws from the retirement system his or her accumulated contributions unless the service is reinstated as provided in section 402.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2503 Member or vested former member; payment of straight life retirement allowance; calculation; payment for lifetime of retirant; election of optional retirement allowance.

Sec. 503.

(1) Upon retirement as provided in this act, the retirement system shall pay to the member or vested former member a straight life retirement allowance computed under subsection (2). If the member retires under the provisions of section 501(1)(d), the retirement system shall reduce the straight life retirement allowance as provided in section 501(1)(d).

(2) The retirement system shall calculate the member's or vested former member's straight life retirement allowance pursuant to 1 of the following plan member classifications, as applicable:

(a) For a plan 1 member, the retirement allowance is 30% of the member's or vested former member's final compensation plus 3-3/4% of the member's or vested former member's final compensation multiplied by the number of years and fraction of a year of credited service in excess of 8 years of credited service but not more than 16 years of credited service. A retirant shall not receive a retirement allowance under this subdivision that exceeds 60% of his or her final compensation. A plan 1 member who was holding his or her respective office on July 12, 1978, may elect to receive a retirement allowance under this section for an amount equal to or less than the computed benefit or to receive a retirement allowance computed under the state employees' retirement system created by the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.48 of the Michigan Compiled Laws.

(b) For a plan 2 member, a plan 3 member, or a plan 4 member who has less than 12 years of credited service, the retirement allowance is 3% of the member's or vested former member's final compensation multiplied by the member's or vested former member's years and fraction of a year of credited service. For a plan 2 member, a plan 3 member, or a plan 4 member who has 12 or more years of credited service, the retirement allowance is 50% of the member's or vested former member's final compensation plus 2.5% of the member's or vested former member's final compensation multiplied by the number of years and fraction of a year of credited service in excess of 12 years of credited service but not more than 16 years of credited service. A retirant shall not receive a retirement allowance under this subdivision that exceeds 60% of his or her final compensation.

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(c) For a plan 5 member, the retirement allowance is equal to the amount computed under subdivision (b) minus the amount of the straight life retirement allowance the member would have been entitled to receive or will receive from another publicly supported retirement plan as of August 31, 1981, based on the same judicial service accrued in the other publicly supported retirement plan as of August 31, 1981. The retirement system shall base the retirement allowance attributable to the same judicial service in another publicly supported retirement plan on service credit for service as a judge in that plan as a percent of total service credit in that plan.

(d) For a plan 6 member, the retirement allowance is 3% of the member's or vested former member's final compensation multiplied by the number of years and fraction of a year of credited service. A retirant shall not receive a retirement allowance under this subdivision that exceeds $15,000.00 or 40% of his or her final compensation, whichever is greater. A retirant shall not receive a retirement allowance under this subdivision that when added to a retirement benefit payable under a county retirement plan exceeds 66-2/3% of his or her final compensation.

(e) For a plan 7 member, the retirement allowance is equal to the amount computed under this subdivision. A retirant shall not receive a retirement allowance under this subdivision that exceeds 66-2/3% of his or her final compensation. The retirement allowance under this subdivision equals the sum of the following, as applicable:

(i) 3.5% of the member's or vested former member's final compensation multiplied by the years and fraction of a year of service credited before January 1, 1983 for which the member or vested former member makes the 5% payment to the retirement system as provided in section 16(1)(d) of former Act No. 165 of the Public Acts of 1954, if any.

(ii) 3% of the member's or vested former member's final compensation multiplied by the years and fraction of a year of service credited before January 1, 1983 for which the 5% payment described in subdivision (i) is not made, but not to exceed 40% of the member's or vested former member's final compensation.

(iii) 3.5% of the member's or vested former member's final compensation multiplied by the years and fraction of a year of service credited after December 31, 1982.

(3) The retirement system shall pay a straight life retirement allowance to a retirant for his or her lifetime. Except as otherwise provided in section 508, the retirement system shall not make an additional retirement allowance payment upon the death of a retirant receiving a straight life retirement allowance other than the full month's retirement allowance payable for the month in which the retirant dies.

(4) At the time of retirement, a member or vested former member may elect to be paid an optional retirement allowance under an optional form of payment provided in section 506 in lieu of the straight life retirement allowance under this section.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2504 Plan 3 member; conversion of $2,250.00 of state salary standardization payment; exemptions; limitations; state base salary of probate court judge; deduction and transfer of contribution.

Sec. 504.

(1) Except as otherwise provided in this subsection, a judge who is a plan 3 member shall convert $2,250.00 of the state salary standardization payment annually prescribed by law for any state fiscal year beginning after September 30, 1981 as an addition to the judge's state base salary for purposes of computation of a retirement allowance under this act. A judge who,

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within 30 days from taking office, files a written notice not to participate in the provisions of this subsection with the retirement system is exempt from this subsection. A judge who was serving on December 31, 1982 and who did not elect to convert $2,250.00 of the state salary standardization payment under section 14a of former 1951 PA 198 is exempt from this section. For the purposes of the calculation of a judge's combined county, city, or district control unit retirement benefit, a judge who has not filed a written notice not to participate in the provisions of this subsection with the retirement system under this subsection or the former judges retirement system shall have the $2,250.00 of the salary standardization payment subtracted from the final average compensation figure used to calculate the judge's county, city, or district control unit retirement benefit.

(2) Except as otherwise provided in this subsection, a judge who is a plan 3 member and who is not exempt from subsection (1) shall convert the balance of the state salary standardization payment annually prescribed by law but which, when added to $2,250.00, does not exceed 40% of the difference between the state base salary and the maximum statutory salary established by the revised judicature act for any state fiscal year beginning after September 30, 1982 as an addition to the judge's state base salary for purposes of computation of a retirement allowance under this act. A judge who, before April 1, 1983, or within 30 days from taking office, whichever is later, files a written notice not to participate in the provisions of this subsection with the retirement system is exempt from this subsection. For the purposes of the calculation of a judge's combined county, city, or district control unit retirement benefit, a judge who has not filed a written notice not to participate in the provisions of this subsection with the retirement system under this subsection or the former judges retirement system shall have the additional state salary standardization payment as an addition to the judge's state base salary for computation of a retirement allowance under this act subtracted from the final average compensation figure used to calculate the judge's county, city, or district control unit retirement benefit.

(3) The sum of the final compensation determined for each plan 3 member and the final average compensation figure used as the basis for determining the judge's retirement allowance as a member of a county retirement plan or a retirement system that was established pursuant to the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555, or that is subject to 1980 PA 443, MCL 38.841 to 38.846, shall not exceed the judge's total annual salary payable from all sources at the time of his or her retirement.

(4) For purposes of subsections (1) and (2), the state base salary of a judge of the probate court who is a plan 3 member is equal to the salary paid pursuant to section 821 of the revised judicature act of 1961, 1961 PA 236, MCL 600.821.

(5) The department or the reporting unit shall deduct the member's required contribution for participation in the provisions of subsections (1) and (2) and section 504a from the member's compensation and shall transfer the contributions to the retirement system.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1999, Act 215, Eff. May 30, 2000

***** 38.2504a THIS SECTION IS REPEALED BY ACT 215 OF 1999 EFFECTIVE ON THE DATE THE SETTLEMENT AGREEMENT IN THE CASE OF MICHIGAN JUDGES ASSN V TREASURER OF THE STATE OF MICHIGAN, CASE NO. 98-DT-72771-CV (ED MI), BECOMES OF NO FURTHER FORCE AND EFFECT, IS RENDERED NULL AND VOID, OR IS OTHERWISE TERMINATED *****

38.2504a Plan 3 member; election; filing; manner; payment; definitions; applicability of section.

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Sec. 504a.

(1) A judge who is a plan 3 member may make the election prescribed in this subsection during the election period. A judge who makes the election under this subsection elects to convert the balance of the difference between the state base salary and the maximum statutory salary established by the revised judicature act that is not already converted under section 504. The election is effective on the conversion date and converts the described balance as an addition to the judge's state base salary for the purposes of computation of a retirement allowance under this act. The retirement system shall accept written elections from plan 3 members during the election period. A member who does not make a written election or who does not file the election during the election period remains at the same level of state salary standardization payment conversion previously elected under this section, if any. A member who files a written election during the election period also elects to convert the balance of the difference between the state base salary and the maximum statutory salary established by the revised judicature act that is not already converted under section 504 for all years of credited service through June 30, 1998. The retirement system shall determine the method by which a member shall make a written election under this subsection. Within 30 days after the request of a member, a reporting unit shall disclose to the member the effect an election under this subsection, if made, will have on the member's right as a retirant to health care benefits and any other benefits from that reporting unit. The election provided in this subsection is not intended to impair a member's right to receive health care benefits or other insurance benefits from a reporting unit.

(2) A member who makes the election under subsection (1) shall make a payment of an amount equal to the sum of the following:

(a) The actuarial cost of the conversion under subsection (1) as calculated by the retirement system, which shall be based upon methods adopted by the department and the retirement system's actuary in consultation with the retirement board.

(b) The member contributions that would have been paid from July 1, 1999 through the conversion date, as if the member had made the conversion under subsection (1) and had been a plan 3c member as of July 1, 1999.

(c) Interest on any amounts determined under subdivisions (a) and (b), from July 1, 1999 through the conversion date, based upon 8% effective annual interest, compounded annually.

(3) The retirement system shall accept as full or partial payment of the amount required to be paid by a member under subsection (2) an amount determined and transferred by any tax-qualified plan or rollover IRA, if any, including the municipal employees retirement system, 1984 PA 427, MCL 38.1501 to 38.1555. Transfer under this subsection shall occur on or before the conversion date, unless extended by the department for good cause After receipt of the amount that is transferred to the retirement system under this subsection, the member shall pay to the retirement system under this subsection the balance of the amount due, if any, as calculated under subsection (2). Beginning with the pay period following the conversion date, the member shall pay the total amount due or the balance due, as appropriate, under subsection (2) by equal payments through deductions from compensation as provided in section 504 over a period not to exceed 100 pay periods. However, a member who files an application to retire and who has an outstanding balance due under subsection (2) shall pay the balance due on or before his or her retirement allowance effective date. A member may elect to have the deductions from compensation under this subsection be made on a salary reduction basis, which deductions shall be picked up by the member's employer. Contributions picked up under this section on a salary-reduction basis are not included as gross taxable income of the contributor.

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(4) As used in this section:

(a) "Conversion date" means the first pay period following December 31, 2000 or a date 90 days following the close of the election period, whichever is later.

(b) "Election period" means an election period of not less than 60 days as determined by the retirement system following the notification from the internal revenue service described in subsection (5).

(5) This section does not apply until the department receives notification from the United States internal revenue service that the conversion of the balance of the difference between the state base salary and the maximum statutory salary established by the revised judicature act under this section does not cause the retirement system to be disqualified for tax purposes.

(6) Contributions shall not be picked up by this state pursuant to this section until the department receives notification from the United States internal revenue service that such contributions will not be included as gross income of the member until they are distributed or made available to the member, retirant, retirement allowance beneficiary, or refund beneficiary.

History: Add. 1999, Act 215, Eff. May 30, 2000

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38.2505 Salary standardization payment as wages for social security reporting purposes.

Sec. 505.

For a member who is a judge and who is receiving a state-paid salary, the salary standardization payment is considered wages for social security reporting purposes to the extent that a judge's state base salary is less than the social security maximum reportable wage for the calendar year. The department shall deduct the judge's employee contribution on the social security maximum reportable wage for the calendar year from the judge's salary paid by this state.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2506 Election of straight life retirement allowance or optional retirement allowance.

Sec. 506.

(1) Upon application for retirement under this act, a member or vested former member who meets the requirements of section 501 may elect to receive a retirement allowance as a straight life retirement allowance or as an optional retirement allowance under 1 of the payment options provided in this section. The member or vested former member shall file a written election with the retirement system before the effective date of the retirement allowance. If a member or vested former member fails to file a written election under this subsection, the member or vested former member is considered to have elected the straight life retirement allowance under section 503. The member or vested former member shall designate in the written election a retirement allowance beneficiary that shall be either the spouse, brother, sister, parent, or child, including an adopted child, of the member or vested former member. The amount of retirement allowance under options A and B are the actuarial equivalent of the amount of the straight life retirement allowance calculated under section 503. The options are as follows:

(a) Option A. The retirement system shall pay an optional retirement allowance to the retirant for life with the provision that upon the retirant's death, payment of the optional retirement allowance is continued throughout the lifetime of the retirement allowance

beneficiary whom the member or vested former member designated in writing and filed with the retirement system at the time of election of the option.

(b) Option B. The retirement system shall pay an optional retirement allowance for life to the retirant with the provision that upon the retirant's death, payment of 1/2 of the optional retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member or vested former member designated in writing and filed with the retirement system at the time of election of the option.

(2) Except as otherwise provided in this section, a retirant shall not change the election of a payment option or the designation of a retirement allowance beneficiary under subsection (1) after the retirement allowance effective date. If a retirant who elected a payment option under subsection (1)(a) or (b) dies, the retirement system shall pay the optional retirement allowance to the option A beneficiary or option B beneficiary effective the first day of the month following the retirant's death. If the option A or option B beneficiary designated under this section is the surviving spouse of the deceased retirant, the surviving spouse may elect to receive a retirement allowance as provided in section 508 in lieu of the survivor portion of the optional form of payment elected by the retirant under this section.

(3) If the option A beneficiary or option B beneficiary predeceases the retirant, the retirant's benefit reverts to a straight life retirement allowance and the retirement system shall begin payment of the straight life retirement allowance to the retirant effective the first day of the month following the option A or option B beneficiary's death.

(4) The retirement system shall provide each member or vested former member who applies for retirement a written explanation of the optional forms of payment under this section before the member or vested former member retires.

(5) If a retirant receiving an optional retirement allowance under this section is divorced from the spouse who had been designated the option A or option B beneficiary, the retirement system shall consider the election of the optional form of payment option under this section void if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act and dated after June 27, 1991 provides that the election of the optional form of payment option under this section is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of an optional form of payment under this section is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight life retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement allowance shall revert to a straight life retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(6) A member who continues active employment on or after the date he or she acquires 8 years of credited service or who becomes eligible for a retirement allowance as a vested former member under section 501, whichever occurs first, may file a written election with the retirement system to elect option A as provided in subsection (1)(a). The member or vested former member shall nominate a retirement allowance beneficiary in the written election in the

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same manner as if the member or vested former member were then retiring from service. If the beneficiary's death or divorce from the member or vested former member occurs before the effective date of the member's or vested former member's retirement, the member's or vested former member's election of option A and nomination of retirement allowance beneficiary is automatically revoked and the member or vested former member may again elect option A and nominate a retirement allowance beneficiary at any time before the effective date of retirement. If a member or vested former member who has made an election and nominated a retirement allowance beneficiary as provided in this subsection dies before the effective date of his or her retirement, then the retirement allowance beneficiary shall receive the retirement allowance that he or she would have been entitled to receive under option A if the member or vested former member had been retired on the date of the member's or vested former member's death. Except as otherwise provided by subsection (7), if a member or vested former member who has made an election under this subsection subsequently retires under this act, his or her election of option A takes effect at the time of retirement. The member or vested former member, before the effective date of retirement, but not after the effective date of retirement, may revoke his or her previous election of option A and elect to receive his or her retirement allowance as a straight life retirement allowance or under option B as provided for in subsection (1). This subsection does not apply on and after the date the settlement agreement in the case of Michigan judges assn v Treasurer of the State of Michigan, case no. 98-DT-72771-CV (Ed Mi), becomes of no further force or effect, is rendered null and void, or is otherwise terminated.

(7) If a member, vested former member, retiring member, or retiring vested former member is married on the effective date of the retirement allowance, an election under this section, other than an election of a payment option under subsection (1) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse. However, this requirement may be waived by the retirement board if the signature of a spouse cannot be obtained because of extenuating circumstances. As used in this subsection, "spouse" means the person to whom the member, vested former member, retiring member, or retiring vested former member is married on the effective date of the retirement allowance.

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History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1999, Act 215, Eff. May 30, 2000 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

38.2507 Disability; determination by medical adviser; notice to appeal; determination by medical committee; refusal to submit to medical examination; payment.

Sec. 507.

(1) A member who has 8 or more years of credited service and who is physically or mentally totally disabled to perform his or her duties is entitled to retire due to disability as provided in this section. A member who has 8 or more years of credited service agrees to submit himself or herself to a medical examination by or under the direction of the medical adviser as required by the retirement board under this subsection. Upon written application for retirement due to disability filed with the retirement system by the member, the chairperson of the judicial tenure commission, or the chief justice of the supreme court, the retirement board shall request that the member submit to a medical examination by or under the direction of the medical adviser.

(2) The medical adviser, after a medical examination of the member, shall determine if the member is physically or mentally totally disabled to perform his or her duties, if the incapacity is likely to be permanent, and if the member should be retired due to disability. The medical

adviser shall file a written report of the medical adviser's findings and shall certify his or her determination to the retirement system. The retirement board shall notify the member of the medical adviser's determination under this subsection by registered mail sent to his or her last known residence address.

(3) The member, before the expiration of 30 days after the date of the notice by the retirement board under subsection (2), may file a written notice to appeal the medical adviser's determination with the retirement system. If a notice to appeal the medical adviser's determination is filed by the member under this subsection, the retirement board shall establish a medical committee to hear the appeal. The medical committee consists of a physician appointed by the retirement board, a physician appointed by the member, and a physician appointed by the first 2 physicians appointed under this subsection. The medical committee, after a medical examination of the member, shall determine if the member is physically or mentally totally disabled to perform his or her duties, if the incapacity is likely to be permanent, and if the member should be retired due to disability. The medical committee shall file a written report of the medical committee's findings and shall certify the medical committee's determination to the retirement system. The retirement board shall notify the member of the medical committee's determination under this subsection by registered mail sent to his or her last known residence address. The determination by a majority of the medical committee is binding upon the retirement system and the member.

(4) A member who refuses to submit to a medical examination required under this section and the refusal continues for 90 days or more; or a member for whom it is determined under this section that he or she should retire due to disability and who fails to retire before the expiration of 60 days after the retirement board sends notice of that determination under subsection (2) or (3), whichever is later, forfeits for himself or herself and his or her heirs and beneficiaries all rights in and to retirement benefits under this act except the refund of accumulated contributions.

(5) Upon determination under this section that a member who has 8 or more years of credited service is physically or mentally totally disabled to perform his or her duties, the retirement board shall retire the member due to disability. Upon retirement due to disability under this section, the retirement system shall pay to the disability retirant a retirement allowance calculated pursuant to section 503. At the time of retirement under this section, the member may elect to be paid an optional retirement allowance under an optional form of payment provided in section 506 in lieu of the straight life retirement allowance under section 503.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2508 Death of member with 8 or more years of credited service or of vested former member before retirement; payment of retirement allowance.

Sec. 508.

(1) If a member who has 8 or more years of credited service dies while in office or if a vested former member dies before retirement, the retirement system shall pay the following retirement allowance as applicable:

(a) If a member with 8 or more years of credited service dies while in office, or if a vested former member dies before retirement, and the member has an election of option A in force as provided in section 506(6), then the retirement allowance beneficiary shall receive the retirement allowance that he or she would have been entitled to receive under option A if the

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member or vested former member had been retired on the date of the member's or vested former member's death.

(b) If a member with 8 or more years of credited service dies while in office, or if a vested former member dies before retirement, and the member or vested former member does not have an election of option A in force as provided in section 506(6), and leaves a surviving spouse, the spouse shall receive a retirement allowance computed in the same manner as if the member had retired effective the day before the date of his or her death, elected option A, and nominated the spouse as retirement allowance beneficiary.

(2) If the deceased vested former member had met the service requirements of section 501(1)(d), the surviving spouse may elect to receive a permanently reduced retirement allowance equal to the amount the deceased vested former member would have received as reduced by section 501(1)(d).

(3) If a retirant dies, the retirement system shall pay the following retirement allowance as applicable:

(a) If the retirant elected a straight life retirement allowance under section 506, the surviving spouse shall receive 1/2 the amount of the retirement allowance computed under section 503, based upon the deceased member's final compensation and credited service.

(b) If the retirant elected an optional retirement allowance under section 506, the retirement allowance beneficiary shall receive a retirement allowance as provided under section 506(1)(a) or (b).

(4) If the deceased member, vested former member, or retirant does not leave a surviving spouse or if the surviving spouse dies after the member's, vested former member's, or retirant's death, the retirement system shall pay to each of the member's, vested former member's, or retirant's unmarried children under the age of 19 years a retirement allowance equal to an equal share of the amount of the retirement allowance payable to a surviving spouse under subsection (1)(b) or subsection (3)(a).

(5) The retirement system shall begin payment of a retirement allowance under this section to a surviving beneficiary of a deceased member or retirant under this section on the first day of the month following the month in which the member or retirant dies. The retirement system shall begin payment of a retirement allowance to a surviving beneficiary of a deceased vested former member on the first day of the month following the month in which the vested former member otherwise would have been eligible to begin receiving benefits under section 501. The retirement system shall terminate payment of a retirement allowance to a surviving beneficiary upon the surviving beneficiary's death.

(6) The retirement system shall begin payment of a retirement allowance to a child of a deceased member or retirant under this section on the first day of the month following the month in which the member or retirant dies without a surviving spouse or the first day of the month following the month in which the surviving spouse dies, whichever is later. The retirement system shall begin payment of a retirement allowance to a child of a deceased vested former member under this section on the first day of the month following the month in which the vested former member dies, the first day of the month following the month in which the vested former member could have retired under section 501 if there is no surviving spouse, or the first day of the month following the month in which the surviving spouse of the vested former member dies, whichever is later. The retirement system shall terminate payment of a retirement allowance to a child upon his or her adoption, marriage, becoming 19 years old, or death, whichever occurs first. However, the retirement system shall continue payment of a retirement allowance to a child who is attending school full-time during the period of full-time school attendance, but in no case beyond the child becoming 25 years old. Upon termination

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of a child's retirement allowance under this subsection, the retirement system shall divide that portion of the retirement allowance into equal shares and add it to the retirement allowance being paid to the remaining eligible children, if any, effective the first day of the month following termination of payment to the ineligible child.

(7) The retirement system shall not pay a retirement allowance under this section if an optional retirement allowance is being paid or will become payable to an option A beneficiary or option B beneficiary under section 506 or if a refund of accumulated contributions is paid under section 405.

(8) The surviving spouse of a deceased member may elect a refund of accumulated contributions in lieu of a retirement allowance under this section. The surviving spouse of a deceased retirant may elect to be paid a retirement allowance under this section in lieu of the survivor portion of the optional form of payment elected by the retirant under section 506.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1999, Act 215, Eff. May 30, 2000 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002

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38.2509 Hospital and medical-surgical and sick care benefits; payment of premiums.

Sec. 509.

(1) The retirement system shall pay the premium for hospital and medical-surgical and sick care benefits for a retirant who, as a member, served after January 1, 1983 as a justice of the supreme court, judge of the court of appeals, or a state official, or for his or her retirement allowance beneficiary who elects coverage in the state group health insurance plan, to the same extent as is provided for retirants and retirement allowance beneficiaries of the state employees' retirement system created by the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being section 38.1 to 38.48 of the Michigan Compiled Laws.

(2) The retirement system shall pay the premium under subsection (1) only if section 305(l)(a) requires member contributions for hospital and medical-surgical and sick care benefits.

History: 1992, Act 234, Eff. Mar. 31, 1993
Compiler's Notes: In subsection (2), the reference to “section 305(l)(a)” evidently should read “section 305(1)(a).”

38.2510 Effective date of retirement before January 1, 1980; exception; supplement.

Sec. 510.

(1) Effective June 1, 1996, the retirement allowance payable to a retirant or beneficiary of a deceased retirant whose effective date of retirement was before January 1, 1980, except a retirant or beneficiary of a deceased retirant who was a member of the former judges retirement system before September 8, 1961, is supplemented as follows:

Effective Date of Retirement	Percent of Increase
January 1, 1979 to December 31, 1979	11%
January 1, 1978 to December 31, 1978	12%
January 1, 1977 to December 31, 1977	13%
January 1, 1976 to December 31, 1976	14%
January 1, 1975 to December 31, 1975	15%
January 1, 1974 to December 31, 1974	16%

January 1, 1973 to December 31, 1973	17%
January 1, 1972 to December 31, 1972	18%
January 1, 1971 to December 31, 1971	19%
January 1, 1970 to December 31, 1970	20%
January 1, 1969 to December 31, 1969	21%
January 1, 1968 to December 31, 1968	22%
January 1, 1967 to December 31, 1967	23%
Before January 1, 1967	24%

(2) The recalculated retirement allowance shall be the basis on which future adjustments to the retirement allowance are calculated.

(3) The supplement provided by this section shall be calculated pursuant to subsection (1) and shall be paid before October 1, 1996. However, for a retirant or beneficiary of a deceased retirant who is eligible to receive a supplement under this section, who is receiving a retirement allowance pursuant to service credited under the former judges retirement system, and who is receiving a retirement allowance pursuant to service credited under the former probate judges retirement system, the retirement system, pursuant to this section, shall only supplement the retirement allowance that is the largest in amount. If a retirant dies before October 1, 1996 and no benefits become payable under section 506 or 508, the retirant's retirement allowance shall not be supplemented under this section.

(4) This section does not apply to a retirant or beneficiary of a deceased retirant who received a supplement under section 16a of the former probate judges retirement system.

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History: Add. 1996, Act 350, Imd. Eff. June 28, 1996

38.2511 Effective date of retirement before January 1, 1980; supplement; minimum amount; retirant or beneficiary receiving annuity or allowance from another publicly supported system; former probate judges retirement system.

Sec. 511.

(1) Except as provided in subsection (2), the retirement allowance payable to a retirant whose effective date of retirement was before January 1, 1980 or to an option A beneficiary of a deceased retirant whose effective date of retirement was before January 1, 1980, as supplemented by section 510 if applicable, shall not be less than $10,000.00 per annum if the retirant had at least 8 years of service credited under the former judges retirement system or the former probate judges retirement system. Except as provided in subsection (2), the retirement allowance payable to a beneficiary, other than an option A beneficiary, of a deceased retirant whose effective date of retirement was before January 1, 1980, as supplemented by section 510 if applicable, shall not be less than $8,500.00 per annum if the retirant had at least 8 years of service credited under the former judges retirement system or the former probate judges retirement system. The payment of an increased retirement allowance under this section is effective on October 1, 1996 and is not payable for any month beginning before October 1, 1996. However, for a retirant or beneficiary of a deceased retirant who is eligible to receive an increased retirement allowance under this section, who is receiving a retirement allowance pursuant to service credited under the former judges retirement system, and who is receiving a retirement allowance pursuant to service credited under the former probate judges retirement system, the retirement system, pursuant to this

section, shall only increase the retirement allowance that is the largest in amount. If, for a retirant or option A beneficiary, that retirement allowance is $10,000.00 or more; or if, for a beneficiary other than an option A beneficiary, that retirement allowance is $8,500.00 or more, the retirant or beneficiary is not entitled to receive an increased retirement allowance under this section.

(2) For a retirant or beneficiary of a deceased retirant who is eligible to receive an increased retirement allowance under subsection (1) and who is receiving an annuity or retirement allowance from another publicly supported retirement system attributable to the same years of service, other than federal social security benefits, the retirement allowance payable to that retirant or beneficiary shall be the amount specified in subsection (1) minus the amount of the annuity or retirement allowance payable from the other publicly supported retirement system, but not less than the retirement allowance as supplemented by section 510, if applicable, or not less than the annuity payable under this act on September 30, 1996.

(3) This section does not apply to a retirant or beneficiary of a deceased retirant who received an increased annuity under section 16b of the former probate judges retirement system.

History: Add. 1996, Act 350, Imd. Eff. June 28, 1996

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38.2512 Supplemented retirement allowance.

Sec. 512.

(1) A person may elect to receive a supplemented retirement allowance if the person meets all of the following requirements:

(a) The person is a retirant or beneficiary of a deceased retirant whose effective date of retirement was on or after January 1, 1980 but before January 2, 1993.

(b) The person is not a retirant or beneficiary of a deceased retirant who was a member of the former judges retirement system before September 8, 1961.

(c) The person executes and submits to the retirement system an election form with a waiver agreement in form and substance as required under subsection (7).

(2) Except as otherwise provided in this section, effective June 1, 2003, a person who meets the requirements of subsection (1) and who timely files a fully executed waiver agreement with the retirement system on a form furnished by the retirement system, on or after January 1, 2003, but not later than April 1, 2003, shall receive a retirement allowance supplemented as follows:

Effective Date of Retirement	Percent of Increase
January 1, 1992 to January 1, 1993	3.5%
January 1, 1991 to December 31, 1991	4.0%
January 1, 1990 to December 31, 1990	4.5%
January 1, 1989 to December 31, 1989	5.0%
January 1, 1988 to December 31, 1988	5.5%
January 1, 1987 to December 31, 1987	6.0%
January 1, 1986 to December 31, 1986	6.5%
January 1, 1985 to December 31, 1985	7.0%
January 1, 1984 to December 31, 1984	7.5%
January 1, 1983 to December 31, 1983	8.0%

January 1, 1982 to December 31, 1982 8.0%

January 1, 1981 to December 31, 1981 8.0%

January 1, 1980 to December 31, 1980 8.0%

(3) The supplemental retirement allowance calculated under subsection (2) shall be the basis on which any future adjustments to the retirement allowance are calculated.

(4) For a person who meets the requirements of subsection (1) and who filed a fully executed waiver agreement by April 1, 2003, the supplement provided by this section shall be calculated under subsection (2) and shall be paid to retirants or beneficiaries of deceased retirants before October 1, 2003. For a person who meets the requirements of subsection (1) who did not file a fully executed waiver agreement with the retirement system by April 1, 2003, and who files a fully executed waiver agreement with the retirement system by January 30, 2004, the supplement provided by this section shall be calculated under subsection (2) and shall be paid to retirants or beneficiaries of deceased retirants before April 1, 2004.

(5) If a retirant dies before October 1, 2003 and no benefits become payable under section 506 or 508, the retirant's retirement allowance shall not be supplemented.

(6) For purposes of this section, a person who elects to receive a retirement allowance supplemented under this section shall be deemed to have done all of the following:

(a) Waived any past, present, or future claim or claims asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI).

(b) Waived any past, present, or future claim or claims that arise from facts that form the basis of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), including, but not limited to, asserted violations of the equal protection clause of section 1 of Amendment XIV of the constitution of the United States, section 2 of article I of the state constitution of 1963, section 604(6), the wasting trust doctrine, and fiduciary duties.

(c) Agreed that he or she will not take any action to question the legal effect of, amend, or rescind the waiver created by his or her election under this section.

(7) The waiver agreement agreed to, executed, and submitted by a person electing a retirement allowance supplemented under this section shall read as follows:

"1. _____ (Name of person) desires to settle and compromise, in their entirety, any past, present, or future claim or claims, either asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), or that arise from the facts forming the basis of that case, including, but not limited to, asserted violations of the equal protection clause of the fourteenth amendment of the United States constitution, section 2 of article I of the state constitution of 1963, section 604(6) of the judges retirement act of 1992, 1992 PA 234, MCL 38.2604, the wasting trust doctrine, and fiduciary duties.

2. _____ (Name of person) agrees to settle and compromise these claims for the consideration of receiving a retirement allowance supplemented under section 512 of the judges retirement act of 1992, 1992 PA 234, MCL 38.2512.

3. _____ (Name of person) waives any right or interest in any past, present, or future claim or claims, either asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), or that arise from the facts forming the basis of that case.

4. _____ (Name of person) will submit a notarized copy of this waiver agreement to the retirement system no later than 5 p.m. eastern standard time on January 30, 2004 and agrees to not take any action to question the legal effect of, amend, or rescind this waiver agreement.

5. _____ (Name of person) expressly agrees and understands that nothing in this agreement limits the rights of the state or its agencies, employees, and agents to any privilege,

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immunity, or defense that would otherwise have been available if the claims or potential claims had been actually litigated in any forum.

6. _____ (Name of person) agrees that, if this waiver agreement is challenged, invalidated, or otherwise found to be unenforceable, any retirement supplement under section 512 shall cease for any person for which the waiver is challenged, invalidated, or otherwise determined to be unenforceable.

7. _____ (Name of person) agrees not to fund, offer advice regarding, or otherwise participate in the case known as Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), or any successor case raising similar claims, and further agrees to oppose class certification and agrees to opt out of any such class in any such cases and to inform the presiding judge of that opposition and desire to opt out.".

(8) Nothing contained in this section shall create or be construed to create any of the following:

(a) Any obligation or liability of the state or the retirement system to any person who does not timely file or enter a form and waiver agreement under this section.

(b) Any admission of liability to any person in any litigation or future litigation.

(c) Any waiver of any privilege, immunity, or defense that is or would have been available to this state or its agencies, employees, or agents in any litigation or future litigation with any person.

(9) A person who meets the requirements of subsection (1) but did not file a fully executed waiver agreement with the retirement system by April 1, 2003 shall have until January 30, 2004 to execute and file the waiver agreement. A person who filed a fully executed waiver agreement with the retirement system by April 1, 2003 is not eligible to execute and file a waiver agreement under this subsection.

History: Add. 2002, Act 675, Imd. Eff. Dec. 26, 2002 ;-- Am. 2003, Act 190, Imd. Eff. Oct. 31, 2003

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Article VI

38.2601 False statement or violation as misdemeanor; penalty.

Sec. 601.

A person who, with intent to deceive, makes a false statement in a report or record required under this retirement system, or who, with intent to deceive, violates this act or a rule promulgated under this act is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2602 Change or error in records; adjustment.

Sec. 602.

If a change or error in the records of the retirement system results in a retirant, retirement allowance beneficiary, or refund beneficiary receiving from the retirement system more or less than the retirant, retirement allowance beneficiary, or refund beneficiary would have been entitled to receive had the records been correct, the retirement system shall as far as practical correct the error, and may adjust the payment to provide an actuarial equivalent of the benefit to which the retirant, retirement allowance beneficiary, refund beneficiary, estate, or legal

representative was correctly entitled. The retirement system shall not make an adjustment in benefits for an error totaling $20.00 or less annually.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2603 Retirement board member or employee; prohibited acts.

Sec. 603.

Except as provided in this act, a retirement board member or employee of the retirement board shall not have any interest, direct or indirect, in the gains or profits of any investments made of retirement system funds. Except as provided in section 202, a board member shall not, directly or indirectly, receive any pay for his or her services. A board member or person connected with the retirement board directly or indirectly, for himself or herself or as an agent or partner of others, shall not borrow any of the retirement system funds or deposits, or in any manner use retirement system funds except to make current and necessary payments that are authorized by the retirement board. A board member or employee of the retirement board shall not become an endorser of surety or become in any manner an obligor for money loaned by or borrowed from the retirement board.

History: 1992, Act 234, Eff. Mar. 31, 1993

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38.2604 Intent of act; employer-financed benefits; limitations; use of assets; returning post-tax member contributions; beginning date of distributions; minimum distribution requirements; termination of retirement system; election to rollover to retirement plan; interest rate; consideration of compensation; qualified military service.

Sec. 604.

(1) This section is enacted under section 401(a) of the internal revenue code, 26 USC 401, which imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code, 26 USC 401, and that the trust be an organization exempt from taxation under section 501 of the internal revenue code, 26 USC 501. The department shall administer the retirement system to fulfill the intent of this subsection.

(2) The retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to governmental plans and, beginning January 1, 2010, applicable provisions of the final regulations issued by the Internal Revenue Service on April 5, 2007. Employer-financed benefits provided by the retirement system under this act must not exceed the applicable limitations set forth in section 415 of the internal revenue code, 26 USC 415, as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code, 26 USC 415, to reflect cost-of-living increases, and the retirement system shall adjust the benefits, including benefits payable to retirants and retirement allowance beneficiaries, subject to the limitation each calendar year to conform with the adjusted limitation. For purposes of section 415(b) of the internal revenue code, 26 USC 415, the applicable limitation applies to aggregated benefits received from all qualified pension plans for which the office of retirement services coordinates administration of that limitation. If there is a conflict between this section and another section of this act, this section prevails.

(3) The assets of the retirement system must be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and must not be used for any other purpose. The assets must not be used for or diverted to a purpose other than for the exclusive benefit of the members, vested former members, retirants, and retirement allowance beneficiaries before satisfaction of all retirement system liabilities.

(4) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member on retirement, under Internal Revenue Service regulations and approved Internal Revenue Service exclusion ratio tables.

(5) The required beginning date for retirement allowances and other distributions must not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires. The required minimum distribution requirements imposed by section 401(a)(9) of the internal revenue code, 26 USC 401, apply to this act and must be administered in accordance with a reasonable and good faith interpretation of the required minimum distribution requirements for all years in which the required minimum distribution requirements apply to this act.

(6) If the retirement system is terminated, the interest of the members, vested former members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code, 26 USC 411, and related Internal Revenue Service regulations applicable to governmental plans.

(7) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made after December 31, 1992.

(8) For purposes of determining actuarial equivalent retirement allowances under sections 506(1)(a) and (b) and 602, the actuarially assumed interest rate must be determined by the director of the department and the retirement board in consultation with the actuary using the mortality tables adopted by the department and the retirement board.

(9) Notwithstanding any other provision of this act, the compensation of a member of the retirement system must be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, 26 USC 401, as adjusted by the commissioner of internal revenue. This subsection applies to an individual who first becomes a member of the retirement system after September 30, 1996.

(10) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code, 26 USC 414. This subsection applies to all qualified military service after December 11, 1994. Beginning on January 1, 2007, in accordance with section 401(a)(37) of the internal revenue code, 26 USC 401, if a member dies while performing qualified military service, for purposes of determining any death benefits payable under this act, the member is treated as having resumed and then terminated employment on account of death.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1995, Act 193, Imd. Eff. Nov. 7, 1995 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002 ;-- Am. 2008, Act 514, Imd. Eff. Jan. 13, 2009 ;-- Am. 2018, Act 335, Imd. Eff. July 2, 2018

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38.2605 Effect of proceedings, rights, and liabilities existing under former judges retirement system or former probate judges retirement system.

Sec. 605.

All proceedings pending and all rights and liabilities existing, acquired, or incurred under the former judges retirement system or former probate judges retirement system at the time this act takes effect are saved. Those proceedings shall be consummated pursuant to the law in effect when the proceedings were commenced. Those rights and liabilities shall be preserved pursuant to the law in effect on the day immediately preceding the effective date of this act. To the extent that either the kinds of benefits available under the former judges retirement system or former probate judges retirement system as in effect on the day immediately before the effective date of this act or the manner of calculating those benefits under the former judges retirement system or former probate judges retirement system results in a greater benefit of any kind than would otherwise be available under this act or include a benefit not otherwise available under this act, the determinations of those kinds of benefits available and the manner of calculating those benefits shall be made pursuant to the former judges retirement system or former probate judges retirement system for those members who participated in the retirement system as set forth in the former judges retirement system or former probate judges retirement system before the effective date of this act.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2606 Transfer of assets, rights, and obligations under former retirement systems to judges retirement system.

Sec. 606.

All assets, rights, and obligations under the former judges retirement system and former probate judges retirement system are transferred to this retirement system. These assets, rights, and obligations shall continue to be accounted for in the various reserves created under this retirement system and all rights and liabilities existing under the former judges retirement system and former probate judges retirement system are preserved.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2607 Repeal of MCL 38.801 to 38.831, 38.901 to 38.933, and 600.2530a.

Sec. 607.

(1) Act No. 198 of the Public Acts of 1951, being sections 38.801 to 38.831 of the Michigan Compiled Laws and Act No. 165 of the Public Acts of 1954, being sections 38.901 to 38.933 of the Michigan Compiled Laws, are repealed.

(2) Section 2530a of Act No. 236 of the Public Acts of 1961, being section 600.2530a of the Michigan Compiled Laws, is repealed.

History: 1992, Act 234, Eff. Mar. 31, 1993

38.2608 Conditional effective date.

Sec. 608.

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This act shall not take effect unless House Bill No. 6097 of the 86th Legislature is enacted into law.

History: 1992, Act 234, Eff. Mar. 31, 1993

Article VII

38.2651 Participation in Tier 1 or Tier 2 by member, vested former member, or former nonvested member; election; writing; irrevocability; method; election subject to domestic relations order act; disqualification for tax purposes; election not implemented due to court order.

Sec. 701.

(1) The retirement system shall provide an opportunity for each member who is a member on March 30, 1997, to elect in writing to terminate membership in Tier 1 and elect to become a qualified participant in Tier 2. An election made by a member under this subsection is irrevocable if the election has taken effect and a transfer has occurred under section 702. The retirement system shall accept written elections under this subsection from members during the period beginning on January 2, 1998 and ending on May 31, 1998. A member who does not make a written election or who does not file the election during the period specified in this subsection continues to be a member of Tier 1. A member who makes and files a written election under this subsection elects to do all of the following:

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

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

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

(2) If an individual who was a vested former member on March 30, 1997, or an individual who was a former nonvested member on March 30, 1997 becomes a judge or state official and is again eligible for membership in Tier 1, the individual shall elect in writing to remain a member of Tier 1 or to terminate membership in Tier 1 and become a qualified participant in Tier 2. An election made by a vested former member or a former nonvested member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from a vested former member or a former nonvested member during the period beginning on the date of the individual's eligibility for membership and ending upon the expiration of 60 days after the date of that eligibility. A vested former member or former nonvested member who makes and files a written election to remain a member of Tier 1 retains all rights and is subject to all conditions as a member of Tier 1 under this act. A vested former member or former nonvested member who does not make a written election or who does not file the election during the period specified in this subsection continues to be a member of Tier 1. Subject to section 701b, a vested former member or former nonvested member who makes and files a written election to terminate membership in Tier 1 elects to do all of the following:

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

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

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

(d) Waive the calculation of any actuarial present value based upon any salary increases that occur after December 31, 1998.

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

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

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

(6) A judge of the circuit court, probate court, or district court who was a member on March 30, 1997 and who either made an election under this section but was not able to have the election implemented due to the restraining order entered in Michigan judges assn v Treasurer of the state of Michigan, case No. 98-DT-72771-CV (Ed Mi) and has retired on or after June 30, 1998 and before the opening of the election window described in section 701a(2), or who retired before June 30, 1998 may make an election in the manner and under the conditions prescribed in the stipulated order regarding temporary restraining order in Michigan judges assn v Treasurer of the state of Michigan, case no. 98-DT-72771-CV (Ed Mi), entered on February 18, 1999. Notwithstanding any other provision of this section to the contrary, the department and the Tier 2 plan administrator shall determine the method by which this subsection is implemented.

(7) A judge of the circuit court, probate court, or district court who was a member on March 30, 1997 and who made an election under this section but was not able to have the election implemented due to the restraining order entered in Michigan judges assn v Treasurer of the state of Michigan, case No. 98-DT-72771-CV (Ed Mi) shall be considered to have made the election under section 701a to terminate membership in Tier 1 and become a qualified participant in Tier 2. The method of implementing this subsection and any disputes regarding this implementation shall be resolved by the plan administrator.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1998, Act 66, Imd. Eff. Apr. 30, 1998 ;-- Am. 1999, Act 215, Eff. May 30, 2000

***** 38.2651a THIS SECTION IS REPEALED BY ACT 215 OF 1999 EFFECTIVE ON THE DATE THE SETTLEMENT AGREEMENT IN THE CASE OF MICHIGAN JUDGES ASSN V TREASURER OF THE STATE OF MICHIGAN, CASE NO. 98-DT-72771-CV (ED MI), BECOMES OF NO FURTHER FORCE AND EFFECT, IS RENDERED NULL AND VOID, OR IS OTHERWISE TERMINATED *****

38.2651a Participation of judge of circuit court, probate court, or district court in Tier 1 or Tier 2; election; window of opportunity; method; disqualification for tax purposes.

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Sec. 701a.

(1) Except as otherwise provided in subsection (3), the retirement system shall provide an opportunity for each judge of the circuit court, probate court, or district court who was a member on March 30, 1997 to elect in writing to terminate membership in Tier 1 and elect to become a qualified participant in Tier 2. This section does not apply to an individual who was a member on March 30, 1997 and whose election to terminate membership in Tier 1 and become a qualified participant in Tier 2 under section 701 has already taken effect and the transfer has occurred. An election made by a member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from members during the period prescribed by the Tier 2 plan administrator under subsection (2). A member who does not make a written election or who does not file the election during the period specified in subsection (2) continues to be a member of Tier 1. Subject to section 701b, a member who makes and files a written election under this subsection elects to do all of the following:

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

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

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

(d) Waive the calculation of any actuarial present value based upon any salary increases that occur after December 31, 1998.

(2) The Tier 2 plan administrator shall establish a 60-day window for the members described in subsections (1) and (3) to make the election described in subsection (1) or (3). The Tier 2 plan administrator shall establish the 60-day window as soon as possible after confirmation from the office of retirement services that all necessary notifications and calculations of actuarial present values have been made, but not later than June 1, 2000.

(3) This subsection applies to a judge of the circuit court, probate court, or district court who was a vested member of Tier 1 on March 30, 1997 and who terminates the employment upon which that membership is based after March 30, 1997 but before the opening day of the 60-day window described in subsection (2). An individual described in this subsection may elect in writing to terminate membership in Tier 1 and elect to receive a distribution from Tier 1. An election made by a member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from a member during the 60-day window period. A member described in this subsection who does not make a written election or who does not file the election during the period specified in subsection (2) continues to be a member or vested former member of Tier 1. A member who makes and files a written election under this subsection to terminate membership in Tier 1 elects to do all of the following:

(a) Cease to be a member of Tier 1 effective 12 midnight on the day immediately preceding the date of the termination of employment.

(b) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under Tier 1 effective 12 midnight on the date described in subdivision (a). This subdivision does not affect an individual's right to health benefits provided under this act pursuant to section 509.

(c) Waive the calculation of any actuarial present value based upon any salary increases that occur after December 31, 1998.

(4) After consultation with the retirement system's actuary and the retirement board, the department of management and budget shall determine the method by which a member, vested former member, or former nonvested member shall make a written election under this section.

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If the member, vested former member, or former nonvested member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the retirement board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

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

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

History: Add. 1999, Act 215, Eff. May 30, 2000

***** 38.2651b THIS SECTION IS REPEALED BY ACT 215 OF 1999 EFFECTIVE ON THE DATE THE SETTLEMENT AGREEMENT IN THE CASE OF MICHIGAN JUDGES ASSN V TREASURER OF THE STATE OF MICHIGAN, CASE NO. 98-DT-72771-CV (ED MI), BECOMES OF NO FURTHER FORCE AND EFFECT, IS RENDERED NULL AND VOID, OR IS OTHERWISE TERMINATED *****

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38.2651b Election pursuant to MCL 38.2651 or MCL 38.2651a.

Sec. 701b.

(1) A member who makes and files a written election under section 701a(1) or an individual who makes and files a written election under section 701(2) shall at the time of that election also make an election to do 1 of the following:

(a) To have 100% of his or her salary that is paid both directly and indirectly by this state for the position he or she holds be considered his or her salary in Tier 2.

(b) To have the portion of his or her salary that is considered compensation under Tier 1 on the day before his or her election continue to be the portion that is considered his or her salary in Tier 2.

(2) A member or individual who does not make the election described in subsection (1) at the time he or she makes the election under section 701a(1) or 701(2) is considered to have made the election described in subsection (1)(b). An election made by a member or individual under this section is irrevocable.

(3) Upon the request of a member, a reporting unit shall disclose to the member the effect an election under this section, if made, will have on the member's right as a retirant to health care benefits from that reporting unit.

(4) This section shall not apply until the department of management and budget receives notification from the United States internal revenue service that the salary election under this section is acceptable.

History: Add. 1999, Act 215, Eff. May 30, 2000

38.2652 Termination of membership; transfer, recomputation, and calculation by retirement system.

Sec. 702.

(1) For a member who elects to terminate membership in Tier 1 under section 701(1), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the qualified participant's account in Tier 2 on or

before October 31, 1998. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

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

(b) For a member who is vested under section 501(1) as of 12 midnight on June 30, 1998, the excess, if any, of the actuarial present value of the member's accumulated benefit obligation, over the amount specified in subdivision (a), from the reserve for employer contributions. Except as provided in subsection (5), for the purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated credited service and estimated final salary as of 12 midnight on June 30, 1998. The actuarial present value shall be computed as of 12 midnight June 30, 1998 and shall be based on the following:

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

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

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

(A) Age 60.

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

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

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

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

(a) Direct the state treasurer to transfer from the reserve for employer contributions to the qualified participant's account in Tier 2 the excess, if any, of the recomputed amount over the previously transferred amount together with interest from 12 midnight June 30, 1998 to the date of the transfer under this subsection, based upon 8% effective annual interest, compounded annually.

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

(3) For a vested former member who elects to terminate membership in this retirement system under section 701(2), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the qualified participant's account in Tier 2 on or before the expiration of 60 days after the date of the individual's termination of employment. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

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

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

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

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

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

(A) Age 60.

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

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

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

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

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

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

(5) For the purposes of subsections (1) to (4), the calculation of estimated and actual present value of the member's or vested former member's accumulated benefit obligation shall be based upon methods adopted by the department of management and budget and the retirement system's actuary in consultation with the retirement board. The retirement system shall utilize the same actuarial valuation report used to calculate the amount transferred under subsection (1) or (3) when making the recomputation required under subsection (2) or (4). Estimated and actual final salary shall be determined as provided in section 105(4) as of 12 midnight on the date the member or deferred member ceases to be a member of Tier 1 under section 701.

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(6) For a former nonvested member who elects to terminate membership in Tier 1 under section 701(2) and who has accumulated contributions standing to his or her credit in the reserve for member contributions, the retirement system shall direct the state treasurer to transfer a lump sum amount from the reserve for member contributions created under section 210 to the qualified participant's account in Tier 2 on or before the expiration of 60 days after the date of the individual's election to terminate membership. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

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

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

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

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1998, Act 66, Imd. Eff. Apr. 30, 1998

***** 38.2652a THIS SECTION IS REPEALED BY ACT 215 OF 1999 EFFECTIVE ON THE DATE THE SETTLEMENT AGREEMENT IN THE CASE OF MICHIGAN JUDGES ASSN V TREASURER OF THE STATE OF MICHIGAN, CASE NO. 98-DT-72771-CV (ED MI), BECOMES OF NO FURTHER FORCE AND EFFECT, IS RENDERED NULL AND VOID, OR IS OTHERWISE TERMINATED *****

38.2652a Termination of membership in Tier 1 pursuant to MCL 38.2651a; definitions; transfer to account in Tier 2; calculation; disqualification for tax purposes.

Sec. 702a.

(1) For a member who elects to terminate membership in Tier 1 under section 701a(1), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the qualified participant's account in Tier 2 on or before the expiration of 5 months after the window prescribed in section 701a(2) is closed. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The member's accumulated contributions, if any, from the reserve for member contributions.

(b) For a member who is vested under section 501(1) as of 12 midnight on the termination date, the excess, if any, of the actuarial present value of the member's accumulated benefit obligation, over the amount specified in subdivision (a), from the reserve for employer contributions. Except as provided in subsection (4), for the purposes of this subsection the present value of the member's accumulated benefit obligation is based upon the member's actual credited service and actual final salary as of 12 midnight on the termination date. The actuarial present value shall be computed as of 12 midnight on the termination date and shall be based on the following:

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

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

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(iii) A benefit commencement age, based upon the member's credited service as of 12 midnight on the termination date. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight on the termination date:

(A) Age 60.

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

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

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

(2) As used in this section:

(a) "Participation date" means the date the individual becomes a qualified participant in Tier 2 as determined under section 701a(1)(b).

(b) "Termination date" means the date the individual ceases to be a member of Tier 1 as specified under section 701a(1)(a).

(3) For a member who elects to terminate membership in this retirement system under section 701a(3), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the former qualified participant's account in Tier 2 on or before the date prescribed in subsection (1) for transfers under that subsection. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The member's accumulated contributions, if any, from the reserve for member contributions as of 12 midnight on the day immediately preceding the date of the termination of employment.

(b) The excess, if any, of the actuarial present value of the member's accumulated benefit obligation, over the amount specified in subdivision (a), from the reserve for employer contributions. Except as provided in subsection (4), for the purposes of this subsection the present value of the member's accumulated benefit obligation is based upon the member's actual credited service and actual final salary as of 12 midnight on the day immediately preceding the date of the termination of employment. The actuarial present value shall be computed as of 12 midnight on that date and shall be based on the following:

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

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

(iii) A benefit commencement age, based upon the member's estimated credited service as of 12 midnight on the day immediately preceding the date of the termination of employment. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight on the day immediately preceding the date of the termination of employment:

(A) Age 60.

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

(C) The age of the member if the member's credited service equals or exceeds 25 years.

(c) Interest on any amounts determined in subdivisions (a) and (b), from the day immediately following the date described in subdivision (a) to the date of the transfer, based upon 8% effective annual interest, compounded annually.

(4) For the purposes of subsections (1) and (3), the calculation of actual present value of the member's or vested former member's accumulated benefit obligation shall be based upon methods adopted by the department and the retirement system's actuary in consultation with

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the retirement board, and actual final salary shall be determined as provided in section 105(4), as of 12 midnight on the date the member ceases to be a member of Tier 1 under section 701a.

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

History: Add. 1999, Act 215, Eff. May 30, 2000

38.2653 Calculation and submission of cost savings.

Sec. 703.

After consulting the retirement system's actuary, the department of management and budget shall calculate for each fiscal year any cost savings that have accrued to this state as a result of the implementation of the amendatory act that added this section over the costs that would have been incurred by this state to fund this retirement system had the amendatory act that added this section not been implemented. The total amount of such cost savings shall be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year to the reserve for health benefits created by section 214. Any amount appropriated pursuant to this section and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health benefits under section 509 is 100% funded.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

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38.2654 Meanings of words and phrases; "accumulated balance" defined.

Sec. 704.

(1) For the purposes of this article, the words and phrases defined in this section and sections 705 to 710 have the meanings ascribed to them in those sections.

(2) "Accumulated balance" means the total balance in a qualified participant's, former qualified participant's, or refund beneficiary's individual account in Tier 2.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

38.2655 "Employer,""former qualified participant," and "health benefit dependent" defined.

Sec. 705.

(1) "Employer" means this state.

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

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

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1999, Act 215, Eff. May 30, 2000

38.2656 “Qualified participant,”“refund beneficiary,”“salary,” and “state treasurer” defined.

Sec. 706.

(1) "Qualified participant" means an individual who is a participant of Tier 2 and who meets 1 of the following requirements:

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

(b) An individual who elects to terminate membership in Tier 1 and who elects to participate in Tier 2 in the manner prescribed in section 701 or 701a.

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

(3) "Salary" means 1 of the following:

(a) For an individual described in subsection (1)(a), 100% of his or her salary that is paid both directly and indirectly by this state for the position he or she holds.

(b) For an individual described in subsection (1)(b), the salary that he or she elects or is considered to have elected under section 701b.

(4) "State treasurer" means the treasurer of this state.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1999, Act 215, Eff. May 30, 2000

38.2657 Administration of Tier 2 by state treasurer.

Sec. 707.

(1) The state treasurer shall administer Tier 2 and shall invest the assets of Tier 2. The state treasurer is the fiduciary and trustee of Tier 2. The state treasurer may appoint an advisory board to assist the state treasurer in carrying out his or her duties as fiduciary and trustee.

(2) The state treasurer shall determine the provisions and procedures of Tier 2 in conformity with this act and the internal revenue code.

(3) The state treasurer has the exclusive authority and responsibility to employ or contract with personnel and for services that the state treasurer determines necessary for the proper administration of and investment of assets of Tier 2, including but not limited to managerial, professional, legal, clerical, technical, and administrative personnel or services.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

38.2658 Hearing.

Sec. 708.

(1) A qualified participant, former qualified participant, health benefit dependent, or refund beneficiary may request a hearing on a claim involving his or her rights under Tier 2. Upon written request, the state treasurer shall provide for a hearing that shall be conducted pursuant to chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws. An individual may be represented by counsel or other duly authorized agent at a hearing conducted under this section.

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(2) Chapters 2, 3, and 5 of Act No. 306 of the Public Acts of 1969, being sections 24.221 to 24.264 and 24.291 to 24.292 of the Michigan Compiled Laws, do not apply to the establishment, implementation, administration, operation, investment, or distribution of Tier 2.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

38.2659 Direction of investment by qualified participant, former qualified participant, and refund beneficiary.

Sec. 709.

Each qualified participant, former qualified participant, and refund beneficiary shall direct the investment of the individual's accumulated employer and employee contributions and earnings to 1 or more investment choices within available categories of investment provided by the state treasurer. The limitations on the percentage of total assets for investments provided in Act No. 314 of the Public Acts of 1965, being sections 38.1132 to 38.1140i of the Michigan Compiled Laws, do not apply to Tier 2.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

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38.2660 Administrative expenses.

Sec. 710.

The administrative expenses of Tier 2 shall be paid by the qualified participants, former qualified participants, and refund beneficiaries who have not closed their accounts in a manner determined by the state treasurer.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

38.2661 Participation in other retirement benefits plan; prohibition.

Sec. 711.

(1) A qualified participant shall not participate in any other public sector retirement benefits plan for simultaneous service rendered to the same public sector employer. This subsection does not apply to a qualified participant who makes the election under section 701b(1)(b) for that portion of his or her compensation that is not considered salary for the purposes of Tier 2. Except as otherwise provided in this act, this section does not do any of the following:

(a) Prohibit a qualified participant from participating in a retirement plan established under the internal revenue code by this state or other public sector employer.

(b) Impair any vested right to a retirement benefit, based upon service as a judge, accrued under such a plan as of the day before he or she becomes a qualified participant in Tier 2.

(c) Impair a qualified participant's right to receive health care benefits or other insurance benefits from a reporting unit.

(2) A qualified participant consents as a condition of participation in Tier 2 that he or she shall not receive a retirement allowance or other benefit from any other public sector retirement benefits plan while holding the position that qualifies him or her for participation in Tier 2 and the other plan. A qualified participant who receives a retirement allowance in violation of this subsection forfeits his or her right to employer contributions under section 714. The employer of a qualified participant who violates this subsection shall immediately suspend employer contributions under section 714. A qualified participant who is a

contributing member in a local public sector retirement benefits plan on the day before he or she becomes a qualified participant in Tier 2 and who does not have a vested right to a retirement benefit under that plan on that date may withdraw the contributions made by that participant to the local plan without violating this subsection. This subsection does not apply to a former qualified participant.

(3) Within 30 days after the request of a qualified participant, a reporting unit shall disclose to the qualified participant the effect this section or an election under section 701 or 701a, if made, will have on the member's right to health care benefits as a retirant or a vested right to a retirement benefit for service as a judge provided by that plan.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1999, Act 215, Eff. May 30, 2000

38.2662 Judge or state official; election not to participate or to discontinue participation in Tier 2.

Sec. 712.

An individual who first becomes a judge or state official on or after March 31, 1997 may irrevocably elect not to become a qualified participant of Tier 2 or may irrevocably elect to discontinue participation in Tier 2 by filing written notice of the election with the state treasurer. Upon receipt of the election, his or her employer shall not contribute any percentage of salary under section 714 for the individual who makes either election.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

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38.2663 Election to terminate membership in Tier 1; credit or charge to Tier 2 account.

Sec. 713.

(1) The state treasurer shall promptly credit the Tier 2 account of a qualified participant who makes an election under section 701 or 701a to terminate membership in Tier 1 with any amount transferred from Tier 1 pursuant to section 702 or 702a, as applicable.

(2) Not later than 30 days after receipt of a recomputed amount under section 702(2) or (4), the state treasurer shall charge the qualified participant's Tier 2 account for any amount of excess transfers under section 702(1) or (3) and transfer that amount to the appropriate fund in Tier 1. The state treasurer may determine which investment choice or choices within a qualified participant's Tier 2 account will be used for this purpose.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1999, Act 215, Eff. May 30, 2000

38.2664 Contributions by employer and participant.

Sec. 714.

(1) This section is subject to the vesting requirements of section 715.

(2) A qualified participant's employer shall contribute to the qualified participant's account in Tier 2 an amount equal to 4% of the qualified participant's salary.

(3) Except as otherwise provided in this subsection, a qualified participant may periodically elect to contribute up to 3% of his or her salary to his or her Tier 2 account. Beginning April 10, 2025, a qualified participant may periodically elect to contribute up to 5% of his or her salary to his or her Tier 2 account. The qualified participant's employer shall make an

additional contribution to the qualified participant's Tier 2 account in an amount equal to the contribution made by the qualified participant under this subsection.

(4) A qualified participant may make contributions in addition to contributions made under subsection (3) to the qualified participant's Tier 2 account as permitted by the state treasurer and the internal revenue code. The qualified participant's employer shall not match contributions made by the qualified participant under this subsection.

(5) A qualified participant who makes a written election under section 701a may elect to contribute up to 6% of his or her salary to his or her Tier 2 account. In lieu of employer contributions under subsection (3), the qualified participant's employer shall make an additional contribution to the qualified participant's Tier 2 account in an amount equal to the contribution made by the qualified participant under this subsection. This subsection applies for a period as determined by the department that equals the time in which a Tier 1 member was not able to make contributions to the Tier 2 plan because of the temporary restraining order issued in the case of Michigan Judges Assn v Treasurer of Michigan, opinion of the United States District Court for the Eastern District of Michigan (Case No. 98-DT-72771-CV).

(6) Beginning January 1, 2002, a qualified participant who is a plan 1 member or a plan 2 member, on taking office and while he or she remains in office, shall contribute 2.0% of the qualified participant's compensation to the retirement system. The retirement system shall deposit the contribution under this subsection into the reserve for health benefits for hospital and medical-surgical and sick care benefits as provided in section 719.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1999, Act 215, Eff. May 30, 2000 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002 ;-- Am. 2024, Act 152, Eff. Apr. 2, 2025

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38.2665 Vesting requirements.

Sec. 715.

(1) A qualified participant is immediately 100% vested in his or her contributions made to Tier 2. A qualified participant shall vest in the employer contributions made on his or her behalf to Tier 2 according to the following schedule:

(a) Upon completion of 2 years of service, 50%.

(b) Upon completion of 3 years of service, 75%.

(c) Upon completion of 4 years of service, 100%.

(2) A qualified participant is vested in the health insurance coverage provided in section 719 if the qualified participant meets 1 of the following requirements:

(a) The qualified participant has completed 4 years of service as a qualified participant and was not a member, deferred vested member, or former nonvested member of Tier 1.

(b) The qualified participant was a member, deferred vested member, or former nonvested member of Tier 1 who made an election to participate in Tier 2 pursuant to section 701 or 701a, and who has met the service requirements he or she would have been required to meet in order to vest in health benefits under section 509.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1998, Act 66, Imd. Eff. Apr. 30, 1998 ;-- Am. 1999, Act 215, Eff. May 30, 2000

38.2666 Participation in Tier 2; crediting years of service accrued under Tier 1.

Sec. 716.

A qualified participant who was a member, deferred vested member, or former nonvested member of Tier 1 who makes an election to participate in Tier 2 pursuant to section 701 or 701a, shall be credited with the years of service accrued under Tier 1 on the effective date of participation in Tier 2 for the purpose of meeting the vesting requirements for benefits under section 715.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 1998, Act 66, Imd. Eff. Apr. 30, 1998 ;-- Am. 1999, Act 215, Eff. May 30, 2000

38.2667 Refund beneficiary.

Sec. 717.

A qualified participant or former qualified participant may nominate 1 or more individuals as a refund beneficiary by filing written notice of nomination with the state treasurer. If the qualified participant or former qualified participant is married at the time of the nomination and the participant's spouse is not the refund beneficiary for 100% of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the state treasurer may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

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38.2668 Methods of distribution.

Sec. 718.

(1) A qualified participant is eligible to receive distribution of his or her accumulated balance in Tier 2 upon becoming a former qualified participant.

(2) Upon the death of a qualified participant or former qualified participant, the accumulated balance of that deceased participant is considered to belong to the refund beneficiary, if any, of that deceased participant. If a valid nomination of refund beneficiary is not on file with the state treasurer, the state treasurer, in a lump sum distribution, shall distribute the accumulated balance to the legal representative, if any, of the deceased participant or, if there is no legal representative, to the deceased participant's estate.

(3) A former qualified participant or refund beneficiary may elect 1 or a combination of several of the following methods of distribution of the accumulated balance:

(a) A lump sum distribution to the recipient.

(b) A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.

(c) Periodic distributions, as authorized by the state treasurer.

(d) No current distribution, in which case the accumulated balance shall remain in Tier 2 until the former qualified participant or refund beneficiary elects a method or methods of distribution under subdivisions (a) to (c), to the extent allowed by federal law.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

38.2669 Health insurance coverage.

Sec. 719.

(1) A former qualified participant may elect health insurance benefits in the manner prescribed in this section if he or she meets both of the following requirements:

(a) The former qualified participant is vested in health benefits under section 715(2).

(b) The former qualified participant meets or exceeds the benefit commencement age employed in the actuarial present value calculation under section 702 and the service requirements that would have applied to that former participant under Tier 1 for receiving health insurance coverage under section 509, if that former participant was a member of Tier 1.

(2) A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage in a health benefit plan or plans as authorized by section 509, or in another plan as provided in subsection (6). A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may also elect health insurance coverage for his or her health benefit dependents, if any. A surviving health benefit dependent of a deceased former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage in the manner prescribed in this section.

(3) Except as otherwise provided in subsection (6), an individual who elects health insurance coverage under this section shall become a member of a health insurance coverage group authorized pursuant to section 509.

(4) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 715(2)(a), and for his or her health benefit dependents, this state shall pay a portion of the health insurance premium as calculated under this subsection on a cash disbursement method. An individual described in this subsection who elects health insurance coverage under this section shall pay to the retirement system the remaining portion of the health insurance coverage premium not paid by this state under this subsection. The portion of the health insurance coverage premium paid by this state under this subsection shall be 50% of the payments for health insurance coverage under section 509 if the former qualified participant has 4 years of service; 75% of the payments for health insurance coverage under section 509 if the former qualified participant has 5 years of service; or 90% of the payments for health insurance coverage under section 509 if the former qualified participant has 6 years of service. If the individual elects the health insurance coverage provided under section 509, the state shall transfer its portion of the amount calculated under this subsection to the reserve for health benefits created by section 214.

(5) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 715(2)(b), and for his or her health benefit dependents, this state shall pay a portion of the health insurance premium as calculated under this subsection on a cash disbursement method. An individual described in this subsection who elects health insurance coverage under this section shall pay to the retirement system the remaining portion of the health insurance coverage premium not paid by this state under this subsection. The portion of the health insurance coverage premium paid by this state under this subsection shall be equal to the premium amounts paid on behalf of retirants of Tier 1 for health insurance coverage under section 509. If the individual elects the health insurance coverage provided under section 509, the state shall transfer its portion of the amount calculated under this subsection to the reserve for health benefits created by section 214.

(6) A former qualified participant or health benefit dependent who is eligible to elect health insurance coverage under this section and who elects health insurance coverage under a

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different plan than the plan authorized under section 509 may elect to have an amount up to the amount of the retirement system's share of the monthly health insurance premium subsidy provided in this section paid by the retirement system directly to the other health insurance plan or to a medical savings account established pursuant to section 220 of the internal revenue code, to the extent allowed by law or under the provisions and procedures of Tier 2.

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

History: Add. 1996, Act 523, Eff. Mar. 31, 1997

38.2670 Distributions; exemption from tax; subject to taxation beginning January 1, 2012; right of setoff to recover overpayments; satisfaction of claims arising from embezzlement or fraud; correction of errors.

Sec. 720.

(1) Except as otherwise provided in this section, distributions under Tier 1 or Tier 2 from employer contributions and earnings on those employer contributions, and distributions under Tier 1 or Tier 2 from employee contributions and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax.

(2) Beginning January 1, 2012, distributions under Tier 1 or Tier 2 from employer contributions and earnings on those employer contributions, and distributions under Tier 1 or Tier 2 from employee contributions and earnings on those employee contributions, are subject to state tax.

(3) The state treasurer has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(4) The state treasurer shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002 ;-- Am. 2011, Act 45, Imd. Eff. May 25, 2011

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