

## THE JUDGES RETIREMENT ACT OF 1992 (EXCERPT)

### Act 234 of 1992

#### 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.

#### **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.

(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, 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 judiciary 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 judiciary 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.**

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 judiciary 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.

(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.

### **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 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.

**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 retiree 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 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 retiree dies, the retirement system shall pay the following retirement allowance as applicable:

(a) If the retiree 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 retiree 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 retiree does not leave a surviving spouse or if the surviving spouse dies after the member's, vested former member's, or retiree's death, the retirement system shall pay to each of the member's, vested former member's, or retiree'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 retiree under this section on the first day of the month following the month in which the member or retiree 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 retiree under this section on the first day of the month following the month in which the member or retiree 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 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.

### **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 note:** 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.

**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.

### **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, 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.