

Act No. 234
Public Acts of 1992
Approved by the Governor
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**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Ciaramitaro, Gubow, Martin, Perry Bullard, Brown, Barns, Hoffman and London

ENROLLED HOUSE BILL No. 6098

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 prescribe penalties and provide remedies; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

ARTICLE I

Sec. 101. This act shall be known and may be cited as "the judges retirement act of 1992".

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.

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.

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 by this state to a judge of the district court. 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.

(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 Act No. 156 of the Public Acts of 1851, being section 46.12a of the Michigan Compiled Laws.

(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, 2528, 2529, 5756, 8371, 8381, and 8420 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.880, 600.2528, 600.2529, 600.5756, 600.8371, 600.8381, and 600.8420 of the Michigan Compiled Laws.

(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) "District control unit" means district control unit as defined in section 8104 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.8104 of the Michigan Compiled Laws.

Sec. 105. (1) "Executive secretary" means the executive secretary of the retirement system as provided in section 205.

(2) 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 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.

(3) "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.

(4) "Former judges retirement system" means the state of Michigan judges' retirement system created by former Act No. 198 of the Public Acts of 1951.

(5) "Former probate judges retirement system" means the state of Michigan probate judges retirement system created by former Act No. 165 of the Public Acts of 1954.

Sec. 106. (1) "Interest" means the rate or rates of interest per annum, compounded annually, as determined by the retirement board.

(2) "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.

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

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

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

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.

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 Act No. 198 of the Public Acts of 1951.

(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 Act No. 198 of the Public Acts of 1951.

(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 14c of former Act No. 198 of the Public Acts of 1951.

(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 Act No. 165 of the Public Acts of 1954.

(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 Act No. 165 of the Public Acts of 1954.

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.

(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.

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.

Sec. 111. "Vested former member" means a member who is entitled to a deferred vested service retirement allowance under section 502.

ARTICLE II

Sec. 201. The Michigan judges retirement system is created for judges and state officials.

Sec. 202. (1) The Michigan judges retirement board is created in the department. Except as provided in subsection (3), the retirement board consists of the following 5 retirement board members:

(a) The state treasurer.

(b) The attorney general.

(c) The deputy legislative auditor general.

(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) An appointed retirement board member serving on the retirement board created under the former judges retirement system or the former probate judges retirement system on the day before the effective date of this act shall serve on the retirement board under this act for the remainder of his or her term or until the appointed retirement board member vacates his or her seat on the retirement board, whichever occurs first. The governor shall not appoint a retirement board member to fill a vacancy under this subsection.

(4) 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.

Sec. 203. (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.

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.

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.

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.

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.

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.

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.

Sec. 210. 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.

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.

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.

Sec. 213. (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. 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; 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, the reserve for health benefits, 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.

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). 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 section 509.

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.

Sec. 216. The retirement system shall comply with the reciprocal retirement act, Act No. 88 of the Public Acts of 1961, being sections 38.1101 to 38.1106 if a resolution electing to come under the provisions of Act No. 88 of the Public Acts of 1961 is in effect.

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 disburse the money in the court fee fund for state financed trial courts. 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) 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.

ARTICLE III

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 1% 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 1% 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.

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.

Sec. 303. (1) 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.

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.

(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 judiciary 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 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. 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.

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 1.5% 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.

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 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.

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.

Sec. 308. (1) The right of a person to a retirement allowance, to the return of accumulated contributions, to the retirement allowance itself, to an optional benefit, to any other right accrued or accruing to any member or beneficiary under this act, and to the money belonging to the retirement system is unassignable and is not subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law, except as otherwise provided in this act.

(2) The right of a member, vested former member, or a retirant to a retirement allowance, to a deferred vested service retirement allowance, to the return of accumulated contributions, to the retirement allowance itself, to any optional benefit, or to any other benefit under this act is subject to award by a court pursuant to section 18 of chapter 84 of the Revised Statutes of 1846, being section 552.18 of the Michigan Compiled Laws, and to any other order of a court pertaining to alimony or child support. The right of a member, vested former member, or a retirant to a retirement allowance, to a deferred vested service retirement allowance, to the return of accumulated contributions, to the retirement allowance itself, to any optional benefit, or to any other benefit under this act is subject to an eligible domestic relations order under the eligible domestic relations order act, Act No. 46 of the Public Acts of 1991, being sections 38.1701 to 38.1711 of the Michigan Compiled Laws.

(3) If an award or order described in subsection (2) requires the retirement system to withhold payment of a retirement allowance, deferred vested service retirement allowance, accumulated contributions, or other benefit from the person to whom it is due or requires the retirement system to make payment or requires the person to request that the retirement system make payment of a retirement allowance, deferred vested service retirement allowance, accumulated contributions, or other benefit, for the purpose of meeting the person's obligations to a spouse, former spouse, or child, as provided in subsection (2), the withholding or payment provisions of the award or order is effective only against those amounts as they become payable to the person receiving a retirement allowance unless otherwise provided in an eligible domestic relations order under Act No. 46 of the Public Acts of 1991. The limitation contained in this subsection does not apply to the accumulated contributions of a person who has terminated employment and who is not a vested former member.

(4) 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.

(5) 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.

ARTICLE IV

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.

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.

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).

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).

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, 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.

(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.

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.

ARTICLE V

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.

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.

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.

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 Act No. 198 of the Public Acts of 1951, 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, Act No. 427 of the Public Acts of 1984, being sections 38.1501 to 38.1557 of the Michigan Compiled Laws, or which is subject to Act No. 443 of the Public Acts of 1980, being sections 38.841 to 38.846 of the Michigan Compiled Laws, 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 by this state to a judge of the district court.

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

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.

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 section 308 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 section 308. 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.

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.

Sec. 508. (1) If a member who has 8 or more years of credited service dies while in office, if a vested former member dies before retirement, or if a retirant dies following retirement, the retirement system shall pay the following retirement allowance as applicable:

(a) To a surviving spouse, to which the deceased member, vested former member, or retirant was married at the time of his or her death, a retirement allowance equal to 1 of the following amounts, as applicable:

(i) For the surviving spouse of a deceased member, 1/2 the amount of the retirement allowance computed under section 503 based upon the deceased member's final compensation and credited service.

(ii) For the surviving spouse of a deceased retirant, 1/2 the amount of the retirement allowance being paid the retirant at time of death.

(iii) For the surviving spouse of a deceased vested former member, 1/2 the amount of the deferred vested service retirement allowance to which the vested former member would have been entitled to receive upon

retirement. 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 1/2 the amount the deceased vested former member would have received as reduced by section 501(1)(d).

(b) 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, 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 subdivision (a).

(2) The retirement system shall begin payment of a retirement allowance to a surviving spouse of a deceased member or retirant under subsection (1) 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 spouse of a deceased vested former member under subsection (1) on the first day of the month following the month in which the vested former member dies or the month in which the vested former member could have retired under section 501, whichever is later. The retirement system shall terminate payment of a retirement allowance to a surviving spouse under subsection (1) upon the surviving spouse's death.

(3) The retirement system shall begin payment of a retirement allowance to a child of a deceased member or retirant under subsection (1) 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 subsection (1) 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 board may continue paying the 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 22 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.

(4) 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.

(5) 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.

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.

ARTICLE VI

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.

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.

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.

Sec. 604. (1) This section is enacted pursuant to section 401(a) of the internal revenue code that 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 and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed the lesser of \$90,000.00 or 100% of the member's average compensation for high 3 years as described in section 415(b)(3) of the internal revenue code for retirement occurring at age 62 or older.

(3) The limitation on employer financed benefits provided by the retirement system under subsection (2) applies unless application of subsections (4) and (5) produces a higher limitation, in which case the higher limitation applies.

(4) If a member retires before age 62, the amount of \$90,000.00 in subsection (1) is actuarially reduced to reflect payment before age 62. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subsection. If this subsection produces a limitation of less than \$75,000.00 at age 55, the limitation at age 55 is \$75,000.00 and the limitations for ages under age 55 shall be calculated from a limitation of \$75,000.00 at age 55.

(5) Section 415(d) of the internal revenue code requires the commissioner of internal revenue to adjust the \$90,000.00 limitation in subsection (2) to reflect cost of living increases, beginning with calendar year 1988. This subsection shall be administered using the limitations applicable to each calendar year as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code. The retirement system shall adjust the benefits subject to the limitation each year to conform with the adjusted limitation.

(6) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall 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.

(7) The retirement system shall return post tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(8) If the retirement system is discontinued, 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 and related internal revenue service regulations applicable to governmental plans.

(9) Notwithstanding any other provision of this section, the retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code that are applicable to governmental plans. If there is a conflict between this section and another section of this or any other act of this state, this section prevails.

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.

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.

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.

Sec. 608. This act shall not take effect unless House Bill No. 6097 of the 86th Legislature is enacted into law.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.