

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1028**

A bill to amend 1992 PA 234, entitled
"The judges retirement act of 1992,"
by amending sections 701, 702, 715, and 716 (MCL 38.2651,
38.2652, 38.2665, and 38.2666), as added by 1996 PA 523.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 701. (1) The retirement system shall provide an oppor-
2 tunity for each member who is a member on March 30, 1997, to
3 elect in writing to terminate membership in Tier 1 and elect to
4 become a qualified participant in Tier 2. An election made by a
5 member under this subsection is irrevocable. The retirement
6 system shall accept written elections under this subsection from
7 members during the period beginning on January 2, 1998 and ending
8 on ~~April 30~~ MAY 31, 1998. A member who does not make a written
9 election or who does not file the election during the period
10 specified in this subsection continues to be a member of Tier 1.

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1 A member who makes and files a written election under this
2 subsection elects to do all of the following:

3 (a) Cease to be a member of Tier 1 effective 12 midnight
4 ~~May 31~~ JUNE 30, 1998.

5 (b) Become a qualified participant in Tier 2 effective 12:01
6 a.m., ~~June~~ JULY 1, 1998.

7 (c) Except as otherwise provided in this subdivision, waive
8 all of his or her rights to a pension, an annuity, a retirement
9 allowance, an insurance benefit, or any other benefit under ~~this~~
10 ~~act~~ TIER 1 effective 12 midnight ~~May 31~~ JUNE 30, 1998. This
11 subdivision does not affect a person's right to health benefits
12 provided under this act pursuant to section 719.

13 (2) If an individual who was a vested former member on March
14 30, 1997, or an individual who was a former nonvested member on
15 March 30, 1997 becomes a judge or state official and is again
16 eligible for membership in Tier 1, the individual shall elect in
17 writing to remain a member of Tier 1 or to terminate membership
18 in Tier 1 and become a qualified participant in Tier 2. An elec-
19 tion made by a vested former member or a former nonvested member
20 under this subsection is irrevocable. The retirement system
21 shall accept written elections under this subsection from a
22 vested former member or a former nonvested member during the
23 period beginning on the date of the individual's eligibility for
24 membership and ending upon the expiration of 60 days after the
25 date of that eligibility. A vested former member or former non-
26 vested member who makes and files a written election to remain a
27 member of Tier 1 retains all rights and is subject to all

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1 conditions as a member of Tier 1 under this act. A vested former
2 member or former nonvested member who does not make a written
3 election or who does not file the election during the period
4 specified in this subsection continues to be a member of Tier 1.
5 A vested former member or former nonvested member who makes and
6 files a written election to terminate membership in Tier 1 elects
7 to do all of the following:

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

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

14 (c) Except as otherwise provided in this subdivision, waive
15 all of his or her rights to a pension, an annuity, a retirement
16 allowance, an insurance benefit, or any other benefit under Tier
17 1 effective 12 midnight on the last day of the payroll period
18 that includes the date of the election. This subdivision does
19 not affect an individual's right to health benefits provided
20 under this act pursuant to section 719.

21 (3) After consultation with the retirement system's actuary
22 and the retirement board, the department of management and budget
23 shall determine the method by which a member, vested former
24 member, or former nonvested member shall make a written election
25 under this section. If the member, vested former member, or
26 former nonvested member is married at the time of the election,
27 the election is not effective unless the election is signed by

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1 the individual's spouse. However, the retirement board may waive
2 this requirement if the spouse's signature cannot be obtained
3 because of extenuating circumstances.

4 (4) An election under this section is subject to the eligi-
5 ble domestic relations order act, ~~Act No. 46 of the Public Acts~~
6 ~~of 1991, being sections 38.1701 to 38.1711 of the Michigan~~
7 ~~Compiled Laws~~ 1991 PA 46, MCL 38.1701 TO 38.1711.

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

14 Sec. 702. (1) For a member who elects to terminate member-
15 ship in Tier 1 under section 701(1), the retirement system shall
16 direct the state treasurer to transfer a lump sum amount from the
17 appropriate fund created under this act to the qualified
18 participant's account in Tier 2 on or before ~~September 30~~
19 OCTOBER 31, 1998. The retirement system shall calculate the
20 amount to be transferred, which shall be equal to the sum of the
21 following:

22 (a) The member's accumulated contributions, if any, from the
23 reserve for member contributions as of 12 midnight ~~May 31~~ JUNE
24 30, 1998.

25 (b) For a member who is vested under section 501(1) as of 12
26 midnight on ~~May 31~~ JUNE 30, 1998, the excess, if any, of the
27 actuarial present value of the member's accumulated benefit

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1 obligation, over the amount specified in subdivision (a), from
2 the reserve for employer contributions. Except as provided in
3 subsection ~~—(5)—~~ (7), for the purposes of this subsection, the
4 present value of the member's accumulated benefit obligation is
5 based upon the member's estimated credited service and estimated
6 final salary as of 12 midnight on ~~May 31~~ JUNE 30, 1998. The
7 actuarial present value shall be computed as of 12 midnight ~~May~~
8 ~~31~~ JUNE 30, 1998 and shall be based on the following:

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

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

14 (iii) A benefit commencement age, based upon the member's
15 estimated credited service as of 12 midnight ~~May 31~~ JUNE 30,
16 1998. The benefit commencement age shall be the younger of the
17 following, but shall not be younger than the member's age as of
18 12 midnight ~~May 31~~ JUNE 30, 1998:

19 (A) Age 60.

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

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

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

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

10 (a) Direct the state treasurer to transfer from the reserve
11 for employer contributions to the qualified participant's account
12 in Tier 2 the excess, if any, of the recomputed amount over the
13 previously transferred amount together with interest from 12 mid-
14 night ~~May 31~~ JUNE 30, 1998 to the date of the transfer under
15 this subsection, based upon 8% effective annual interest, com-
16 pounded annually.

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

23 (3) For a vested former member who elects to terminate mem-
24 bership in this retirement system under section ~~61(2)~~ 701(2),
25 the retirement system shall direct the state treasurer to trans-
26 fer a lump sum amount from the appropriate fund created under
27 this act to the qualified participant's account in Tier 2 on or

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

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

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

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

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

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

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

5 (A) Age 60.

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

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

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

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

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

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

5 (b) Direct the state treasurer to transfer from the quali-
6 fied participant's account in Tier 2 to the reserve for employer
7 contributions the excess, if any, of the previously transferred
8 amount over the recomputed amount, together with interest, from
9 the date of the transfer made under subsection ~~-(4)-~~ (3), based
10 upon 8% effective annual interest, compounded annually.

11 (5) For the purposes of subsections (1) to (4), the calcula-
12 tion of estimated and actual present value of the member's or
13 vested former member's accumulated benefit obligation shall be
14 based upon methods adopted by the department of management and
15 budget and the retirement system's actuary in consultation with
16 the retirement board. The retirement system shall utilize the
17 same actuarial valuation report used to calculate the amount
18 transferred under subsection (1) or (3) when making the recompu-
19 tation required under subsection (2) or (4). Estimated and
20 actual final salary shall be determined as provided in section
21 ~~105(3)-~~ 105(4) as of 12 midnight on the date the member or
22 deferred member ceases to be a member of Tier 1 under section
23 701.

24 (6) For a former nonvested member who elects to terminate
25 membership in Tier 1 under section 701(2) and who has accumulated
26 contributions standing to his or her credit in the reserve for
27 member contributions, the retirement system shall direct the

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1 state treasurer to transfer a lump sum amount from the reserve
2 for member contributions created under section 210 to the quali-
3 fied participant's account in Tier 2 on or before the expiration
4 of 60 days after the date of the individual's election to termi-
5 nate membership. The retirement system shall calculate the
6 amount to be transferred, which shall be equal to the sum of the
7 following:

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

12 (b) Interest on any amounts determined in subdivision (a),
13 from the first day of the payroll period immediately following
14 the date of the election to the date of the transfer, based upon
15 8% effective annual interest, compounded annually.

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

22 Sec. 715. (1) A qualified participant is immediately 100%
23 vested in his or her contributions made to Tier 2. A qualified
24 participant shall vest in the employer contributions made on his
25 or her behalf to Tier 2 according to the following schedule:

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

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

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

3 (2) A qualified participant is vested in the health insur-
4 ance coverage provided in section ~~79~~ 719 if the qualified par-
5 ticipant meets 1 of the following requirements:

6 (a) The qualified participant has completed 4 years of serv-
7 ice as a qualified participant and was not a member, deferred
8 vested member, or former nonvested member of Tier 1.

9 (b) The qualified participant was a member, deferred vested
10 member, or former nonvested member of Tier 1 who made an election
11 to participate in Tier 2 pursuant to section ~~61~~ 701, and who
12 has met the service requirements he or she would have been
13 required to meet in order to vest in health benefits under sec-
14 tion 509.

15 Sec. 716. A qualified participant who was a member,
16 deferred vested member, or former nonvested member of Tier 1 who
17 makes an election to participate in Tier 2 pursuant to section
18 ~~61~~ 701, shall be credited with the years of service accrued
19 under Tier 1 on the effective date of participation in Tier 2 for
20 the purpose of meeting the vesting requirements for benefits
21 under section ~~75~~ 715.