

**SENATE BILL NO. 1028**

March 19, 1998, Introduced by Senator STEIL and referred to the Committee on Appropriations.

A bill to amend 1992 PA 234, entitled "The judges retirement act of 1992," by amending sections 104, 504, 701, 702, 705, 706, 711, 715, and 716 (MCL 38.2104, 38.2504, 38.2651, 38.2652, 38.2655, 38.2656, 38.2661, 38.2665, and 38.2666), section 104 as amended by 1995 PA 193 and sections 701, 702, 705, 706, 711, 715, and 716 as added by 1996 PA 523, and by adding sections 701a and 718a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 104. (1) "Compensation" means 1 of the following:

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

4       (b) For a plan 3 member, the salary paid by this state,  
5 except that for a plan 3 member who is a judge of the recorder's  
6 court of the city of Detroit, compensation means an amount equal  
7 to the salary paid by this state to a judge of the circuit court

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

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

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

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

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

20 (3) "Court fees" means a court filing fee or costs earmarked  
21 for the retirement system and collected by a county clerk, clerk  
22 of the circuit court, or clerk of the district court pursuant to  
23 sections 880, 2529, 5756, 8371, 8381, and 8420 of the revised  
24 judiciary act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~  
25 ~~being sections 600.880, 600.2529, 600.5756, 600.8371, 600.8381,~~  
26 ~~and 600.8420 of the Michigan Compiled Laws~~ 1961 PA 236, MCL  
27 600.880, 600.2529, 600.5756, 600.8371, 600.8381, AND 600.8420.

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

2 (a) Service credited to a member under this act, the former  
3 judges retirement system, and the former probate judges retire-  
4 ment system.

5 (b) Other public service purchased under section 403.

6 (c) Service purchased under section 404.

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

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

12 (7) "Distributee" includes a member or vested former  
13 member. Distributee also includes the member's or vested former  
14 member's surviving spouse or the member's or vested former  
15 member's spouse or former spouse under an eligible domestic rela-  
16 tions order, with regard to the interest of the spouse or former  
17 spouse.

18 (8) "District control unit" means district control unit as  
19 defined in section 8104 of the revised judicature act of 1961,  
20 ~~Act No. 236 of the Public Acts of 1961, being section 600.8104~~  
21 ~~of the Michigan Compiled Laws~~ 1961 PA 236, MCL 600.8104.

22 Sec. 504. (1) Except as otherwise provided in this subsec-  
23 tion, a judge who is a plan 3 member shall convert \$2,250.00 of  
24 the state salary standardization payment annually prescribed by  
25 law for any state fiscal year beginning after September 30, 1981  
26 as an addition to the judge's state base salary for purposes of  
27 computation of a retirement allowance under this act. A judge

1 who, within 30 days from taking office, files a written notice  
2 not to participate in the provisions of this subsection with the  
3 retirement system is exempt from this subsection. A judge who  
4 was serving on December 31, 1982 and who did not elect to convert  
5 \$2,250.00 of the state salary standardization payment under sec-  
6 tion 14a of former ~~Act No. 198 of the Public Acts of 1951,~~ 1951  
7 PA 198 is exempt from this section. For the purposes of the cal-  
8 culation of a judge's combined county, city, or district control  
9 unit retirement benefit, a judge who has not filed a written  
10 notice not to participate in the provisions of this subsection  
11 with the retirement system under this subsection or the former  
12 judges retirement system shall have the \$2,250.00 of the salary  
13 standardization payment subtracted from the final average compen-  
14 sation figure used to calculate the judge's county, city, or dis-  
15 trict control unit retirement benefit.

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

1 with the retirement system is exempt from this subsection. For  
2 the purposes of the calculation of a judge's combined county,  
3 city, or district control unit retirement benefit, a judge who  
4 has not filed a written notice not to participate in the provi-  
5 sions of this subsection with the retirement system under this  
6 subsection or the former judges retirement system shall have the  
7 additional state salary standardization payment as an addition to  
8 the judge's state base salary for computation of a retirement  
9 allowance under this act subtracted from the final average com-  
10 pensation figure used to calculate the judge's county, city, or  
11 district control unit retirement benefit.

12 (3) The sum of the final compensation determined for each  
13 plan 3 member and the final average compensation figure used as  
14 the basis for determining the judge's retirement allowance as a  
15 member of a county retirement plan or a retirement system that  
16 was established pursuant to the municipal employees retirement  
17 act of 1984, ~~Act No. 427 of the Public Acts of 1984, being sec-~~  
18 ~~tions 38.1501 to 38.1557 of the Michigan Compiled Laws~~ 1984 PA  
19 427, MCL 38.1501 TO 38.1555, or which is subject to ~~Act No. 443~~  
20 ~~of the Public Acts of 1980, being sections 38.841 to 38.846 of~~  
21 ~~the Michigan Compiled Laws~~ 1980 PA 443, MCL 38.841 TO 38.846,  
22 shall not exceed the judge's total annual salary payable from all  
23 sources at the time of his or her retirement.

24 (4) For purposes of subsections (1) and (2), the state base  
25 salary of a judge of the probate court who is a plan 3 member is  
26 equal to the salary paid ~~by this state to a judge of the~~

1 ~~district court~~ PURSUANT TO SECTION 821 OF THE REVISED JUDICATURE  
2 ACT OF 1961, 1961 PA 236, MCL 600.821.

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

7 Sec. 701. (1) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSEC-  
8 TION (3), THE retirement system shall provide an opportunity for  
9 each member who is a member on March 30, 1997, to elect in writ-  
10 ing to terminate membership in Tier 1 and elect to become a qual-  
11 ified participant in Tier 2. An election made by a member under  
12 this subsection is irrevocable. The retirement system shall  
13 accept written elections under this subsection from members  
14 during the period beginning on January 2, 1998 and ending on  
15 ~~April~~ NOVEMBER 30, 1998. A member who does not make a written  
16 election or who does not file the election during the period  
17 specified in this subsection continues to be a member of Tier 1.  
18 ~~A~~ SUBJECT TO SECTION 701A, A member who makes and files a writ-  
19 ten election under this subsection elects to do all of the  
20 following:

21 (a) Cease to be a member of Tier 1 effective 12 midnight  
22 ~~May~~ DECEMBER 31, 1998.

23 (b) Become a qualified participant in Tier 2 effective 12:01  
24 a.m., ~~June 1, 1998~~ JANUARY 1, 1999.

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

1 ~~act~~ TIER 1 effective 12 midnight ~~May~~ DECEMBER 31, 1998. This  
2 subdivision does not affect a person's right to health benefits  
3 provided under this act pursuant to section 719.

4 (2) If an individual who was a vested former member on March  
5 30, 1997, or an individual who was a former nonvested member on  
6 March 30, 1997 becomes a judge or state official and is again  
7 eligible for membership in Tier 1, the individual shall elect in  
8 writing to remain a member of Tier 1 or to terminate membership  
9 in Tier 1 and become a qualified participant in Tier 2. An elec-  
10 tion made by a vested former member or a former nonvested member  
11 under this subsection is irrevocable. The retirement system  
12 shall accept written elections under this subsection from a  
13 vested former member or a former nonvested member during the  
14 period beginning on the date of the individual's eligibility for  
15 membership and ending upon the expiration of 60 days after the  
16 date of that eligibility. A vested former member or former non-  
17 vested member who makes and files a written election to remain a  
18 member of Tier 1 retains all rights and is subject to all condi-  
19 tions as a member of Tier 1 under this act. A vested former  
20 member or former nonvested member who does not make a written  
21 election or who does not file the election during the period  
22 specified in this subsection continues to be a member of Tier 1.  
23 ~~A~~ SUBJECT TO SECTION 701A, A vested former member or former  
24 nonvested member who makes and files a written election to termi-  
25 nate membership in Tier 1 elects to do all of the following:

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

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

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 Tier  
10 1 effective 12 midnight on the last day of the payroll period  
11 that includes the date of the election. This subdivision does  
12 not affect an individual's right to health benefits provided  
13 under this act pursuant to section 719.

14 (3) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO WAS A  
15 VESTED MEMBER OF TIER 1 ON THE EFFECTIVE DATE OF THE AMENDATORY  
16 ACT THAT ADDED THIS SENTENCE AND WHO TERMINATES THE EMPLOYMENT  
17 UPON WHICH THAT MEMBERSHIP IS BASED AFTER THE EFFECTIVE DATE OF  
18 THE AMENDATORY ACT THAT ADDED THIS SENTENCE BUT ON OR BEFORE  
19 DECEMBER 31, 1998. BEFORE THE TERMINATION OF HIS OR HER EMPLOY-  
20 MENT, AN INDIVIDUAL DESCRIBED IN THIS SUBSECTION MAY ELECT IN  
21 WRITING TO TERMINATE MEMBERSHIP IN TIER 1 AND BECOME A QUALIFIED  
22 PARTICIPANT IN TIER 2. AN ELECTION MADE BY A MEMBER UNDER THIS  
23 SUBSECTION IS IRREVOCABLE. THE RETIREMENT SYSTEM SHALL ACCEPT  
24 WRITTEN ELECTIONS UNDER THIS SUBSECTION FROM A MEMBER DURING THE  
25 PERIOD BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
26 ADDED THIS SENTENCE AND ENDING ON DECEMBER 31, 1998. A MEMBER  
27 DESCRIBED IN THIS SUBSECTION WHO DOES NOT MAKE A WRITTEN ELECTION



1 OR WHO DOES NOT FILE THE ELECTION BEFORE THE TERMINATION OF HIS  
2 OR HER EMPLOYMENT CONTINUES TO BE A MEMBER OR VESTED FORMER  
3 MEMBER OF TIER 1. A MEMBER WHO MAKES AND FILES A WRITTEN ELEC-  
4 TION UNDER THIS SUBSECTION TO TERMINATE MEMBERSHIP IN TIER 1  
5 ELECTS TO DO ALL OF THE FOLLOWING:

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

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

12 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, WAIVE  
13 ALL OF HIS OR HER RIGHTS TO A PENSION, AN ANNUITY, A RETIREMENT  
14 ALLOWANCE, AN INSURANCE BENEFIT, OR ANY OTHER BENEFIT UNDER TIER  
15 1 EFFECTIVE 12 MIDNIGHT ON THE DATE DESCRIBED IN SUBDIVISION  
16 (A). THIS SUBDIVISION DOES NOT AFFECT AN INDIVIDUAL'S RIGHT TO  
17 HEALTH BENEFITS PROVIDED UNDER THIS ACT PURSUANT TO SECTION 719.

18 (4) ~~-(3)-~~ After consultation with the retirement system's  
19 actuary and the retirement board, the department of management  
20 and budget shall determine the method by which a member, vested  
21 former member, or former nonvested member shall make a written  
22 election under this section. If the member, vested former  
23 member, or former nonvested member is married at the time of the  
24 election, the election is not effective unless the election is  
25 signed by the individual's spouse. However, the retirement board  
26 may waive this requirement if the spouse's signature cannot be  
27 obtained because of extenuating circumstances.

1       (5) ~~-(4)-~~ An election under this section is subject to the  
2 eligible domestic relations order act, ~~Act No. 46 of the Public~~  
3 ~~Acts of 1991, being sections 38.1701 to 38.1711 of the Michigan~~  
4 ~~Compiled Laws~~ 1991 PA 46, MCL 38.1701 TO 38.1711.

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

11       SEC. 701A. (1) A MEMBER WHO MAKES AND FILES A WRITTEN ELEC-  
12 TION UNDER SECTION 701(1) OR AN INDIVIDUAL WHO MAKES AND FILES A  
13 WRITTEN ELECTION UNDER SECTION 701(2) SHALL AT THE TIME OF THAT  
14 ELECTION ALSO MAKE AN ELECTION TO DO 1 OF THE FOLLOWING:

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

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

22       (2) A MEMBER OR INDIVIDUAL WHO DOES NOT MAKE THE ELECTION  
23 DESCRIBED IN SUBSECTION (1) AT THE TIME HE OR SHE MAKES THE ELEC-  
24 TION UNDER SECTION 701(1) OR (2) IS CONSIDERED TO HAVE MADE THE  
25 ELECTION DESCRIBED IN SUBSECTION (1)(B). AN ELECTION MADE BY A  
26 MEMBER OR INDIVIDUAL UNDER THIS SECTION IS IRREVOCABLE.

1       Sec. 702. (1) For a member who elects to terminate  
2 membership in Tier 1 under section 701(1), the retirement system  
3 shall direct the state treasurer to transfer a lump sum amount  
4 from the appropriate fund created under this act to the qualified  
5 participant's account in Tier 2 on or before ~~September 30, 1998~~  
6 APRIL 30, 1999. The retirement system shall calculate the amount  
7 to be transferred, which shall be equal to the sum of the  
8 following:

9       (a) The member's accumulated contributions, if any, from the  
10 reserve for member contributions as of 12 midnight ~~May~~ DECEMBER  
11 31, 1998.

12       (b) For a member who is vested under section 501(1) as of 12  
13 midnight on ~~May~~ DECEMBER 31, 1998, the excess, if any, of the  
14 actuarial present value of the member's accumulated benefit obli-  
15 gation, over the amount specified in subdivision (a), from the  
16 reserve for employer contributions. Except as provided in sub-  
17 section ~~(5)~~ (7), for the purposes of this subsection, the  
18 present value of the member's accumulated benefit obligation is  
19 based upon the member's estimated credited service and estimated  
20 final salary as of 12 midnight on ~~May~~ DECEMBER 31, 1998. The  
21 actuarial present value shall be computed as of 12 midnight ~~May~~  
22 DECEMBER 31, 1998 and shall be based on the following:

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

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

1 (iii) A benefit commencement age, based upon the member's  
2 estimated credited service as of 12 midnight ~~May~~ DECEMBER 31,  
3 1998. The benefit commencement age shall be the younger of the  
4 following, but shall not be younger than the member's age as of  
5 12 midnight ~~May~~ DECEMBER 31, 1998:

6 (A) Age 60.

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

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

11 (c) Interest on any amounts determined in subdivisions (a)  
12 and (b), from ~~June 1, 1998~~ JANUARY 1, 1999 to the date of the  
13 transfer, based upon 8% annual interest, compounded annually.

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

23 (a) Direct the state treasurer to transfer from the reserve  
24 for employer contributions to the qualified participant's account  
25 in Tier 2 the excess, if any, of the recomputed amount over the  
26 previously transferred amount together with interest from 12  
27 midnight ~~May~~ DECEMBER 31, 1998 to the date of the transfer

1 under this subsection, based upon 8% effective annual interest,  
2 compounded annually.

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

9 (3) For a vested former member who elects to terminate mem-  
10 bership in this retirement system under section ~~61(2)~~ 701(2),  
11 the retirement system shall direct the state treasurer to trans-  
12 fer a lump sum amount from the appropriate fund created under  
13 this act to the qualified participant's account in Tier 2 on or  
14 before the expiration of 60 days after the date of the  
15 individual's termination of employment. The retirement system  
16 shall calculate the amount to be transferred, which shall be  
17 equal to the sum of the following:

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

22 (b) The excess, if any, of the actuarial present value of  
23 the vested former member's accumulated benefit obligation, over  
24 the amount specified in subdivision (a), from the reserve for  
25 employer contributions. Except as provided in subsection ~~(5)~~  
26 (7), for the purposes of this subsection, the present value of  
27 the vested former member's accumulated benefit obligation is

1 based upon the vested former member's estimated credited service  
2 and estimated final salary as of 12 midnight on the last day of  
3 the payroll period that includes the date of the election. The  
4 actuarial present value shall be computed as of 12 midnight on  
5 that date and shall be based on the following:

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

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

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

18 (A) Age 60.

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

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

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

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

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

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

25       (5) FOR A MEMBER WHO ELECTS TO TERMINATE MEMBERSHIP IN THIS  
26 RETIREMENT SYSTEM UNDER SECTION 701(3), THE RETIREMENT SYSTEM  
27 SHALL DIRECT THE STATE TREASURER TO TRANSFER A LUMP SUM AMOUNT

1 FROM THE APPROPRIATE FUND CREATED UNDER THIS ACT TO THE FORMER  
2 QUALIFIED PARTICIPANT'S ACCOUNT IN TIER 2 ON OR BEFORE THE EXPI-  
3 RATION OF 60 DAYS AFTER THE DATE OF THE INDIVIDUAL'S TERMINATION  
4 OF EMPLOYMENT. THE RETIREMENT SYSTEM SHALL CALCULATE THE AMOUNT  
5 TO BE TRANSFERRED, WHICH SHALL BE EQUAL TO THE SUM OF THE  
6 FOLLOWING:

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

10 (B) THE EXCESS, IF ANY, OF THE ACTUARIAL PRESENT VALUE OF  
11 THE MEMBER'S ACCUMULATED BENEFIT OBLIGATION, OVER THE AMOUNT  
12 SPECIFIED IN SUBDIVISION (A), FROM THE RESERVE FOR EMPLOYER  
13 CONTRIBUTIONS. EXCEPT AS PROVIDED IN SUBSECTION (7), FOR THE  
14 PURPOSES OF THIS SUBSECTION, THE PRESENT VALUE OF THE MEMBER'S  
15 ACCUMULATED BENEFIT OBLIGATION IS BASED UPON THE MEMBER'S ESTI-  
16 MATED CREDITED SERVICE AND ESTIMATED FINAL SALARY AS OF 12 MID-  
17 NIGHT ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE TERMINA-  
18 TION OF EMPLOYMENT. THE ACTUARIAL PRESENT VALUE SHALL BE COM-  
19 PUTED AS OF 12 MIDNIGHT ON THAT DATE AND SHALL BE BASED ON THE  
20 FOLLOWING:

21 (i) EIGHT PERCENT EFFECTIVE ANNUAL INTEREST, COMPOUNDED  
22 ANNUALLY.

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

26 (iii) A BENEFIT COMMENCEMENT AGE, BASED UPON THE MEMBER'S  
27 ESTIMATED CREDITED SERVICE AS OF 12 MIDNIGHT ON THE DAY



1 IMMEDIATELY PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT.  
2 THE BENEFIT COMMENCEMENT AGE SHALL BE THE YOUNGER OF THE FOLLOW-  
3 ING, BUT SHALL NOT BE YOUNGER THAN THE MEMBER'S AGE AS OF 12 MID-  
4 NIGHT ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE TERMINA-  
5 TION OF EMPLOYMENT:

6 (A) AGE 60.

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

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

11 (C) INTEREST ON ANY AMOUNTS DETERMINED IN SUBDIVISIONS (A)  
12 AND (B), FROM THE DAY IMMEDIATELY FOLLOWING THE DATE DESCRIBED IN  
13 SUBDIVISION (A) TO THE DATE OF THE TRANSFER, BASED UPON 8% EFFEC-  
14 TIVE ANNUAL INTEREST, COMPOUNDED ANNUALLY.

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

25 (A) DIRECT THE STATE TREASURER TO TRANSFER FROM THE RESERVE  
26 FOR EMPLOYER CONTRIBUTIONS TO THE FORMER QUALIFIED PARTICIPANT'S  
27 ACCOUNT IN TIER 2 THE EXCESS, IF ANY, OF THE RECOMPUTED AMOUNT

1 OVER THE PREVIOUSLY TRANSFERRED AMOUNT TOGETHER WITH INTEREST  
2 FROM 12 MIDNIGHT ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE  
3 TERMINATION OF EMPLOYMENT TO THE DATE OF THE TRANSFER UNDER THIS  
4 SUBSECTION, BASED UPON 8% EFFECTIVE ANNUAL INTEREST, COMPOUNDED  
5 ANNUALLY.

6 (B) DIRECT THE STATE TREASURER TO TRANSFER FROM THE FORMER  
7 QUALIFIED PARTICIPANT'S ACCOUNT IN TIER 2 TO THE RESERVE FOR  
8 EMPLOYER CONTRIBUTIONS THE EXCESS, IF ANY, OF THE PREVIOUSLY  
9 TRANSFERRED AMOUNT OVER THE RECOMPUTED AMOUNT, TOGETHER WITH  
10 INTEREST, FROM THE DATE OF THE TRANSFER MADE UNDER SUBSECTION  
11 (5), BASED UPON 8% EFFECTIVE ANNUAL INTEREST, COMPOUNDED  
12 ANNUALLY.

13 (7) ~~-(5)-~~ For the purposes of subsections (1) to ~~-(4)-~~ (6),  
14 the calculation of estimated and actual present value of the  
15 member's or vested former member's accumulated benefit obligation  
16 shall be based upon methods adopted by the department of manage-  
17 ment and budget and the retirement system's actuary in consulta-  
18 tion with the retirement board. The retirement system shall uti-  
19 lize the same actuarial valuation report used to calculate the  
20 amount transferred under subsection (1), ~~-or-~~ (3), OR (5) when  
21 making the recomputation required under subsection (2), ~~-or-~~ (4),  
22 OR (6). Estimated and actual final salary shall be determined as  
23 provided in section ~~-105(3)-~~ 105(4) as of 12 midnight on the date  
24 the member or deferred member ceases to be a member of Tier 1  
25 under section 701.

26 (6) For a former nonvested member who elects to terminate  
27 membership in Tier 1 under section 701(2) and who has accumulated

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

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

14       (b) Interest on any amounts determined in subdivision (a),  
15 from the first day of the payroll period immediately following  
16 the date of the election to the date of the transfer, based upon  
17 8% effective annual interest, compounded annually.

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

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

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

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

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

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

15       (b) An individual who elects to terminate membership in Tier  
16 1 and who elects to participate in Tier 2 in the manner pre-  
17 scribed in section 701.

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

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

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

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

4 (4) ~~(3)~~ "State treasurer" means the treasurer of this  
5 state.

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

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

1 PUBLIC SECTOR RETIREMENT BENEFITS PLAN ON THE DAY BEFORE HE OR  
 2 SHE BECOMES A QUALIFIED PARTICIPANT IN TIER 2 AND WHO DOES NOT  
 3 HAVE A VESTED RIGHT TO A RETIREMENT BENEFIT UNDER THAT PLAN ON  
 4 THAT DATE MAY WITHDRAW THE CONTRIBUTIONS MADE BY THAT PARTICIPANT  
 5 TO THE LOCAL PLAN WITHOUT VIOLATING THIS SUBSECTION. THIS SUB-  
 6 SECTION DOES NOT APPLY TO A FORMER QUALIFIED PARTICIPANT.

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

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

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

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

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

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

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

26 (b) The qualified participant was a member, deferred vested  
 27 member, or former nonvested member of Tier 1 who made an election

1 to participate in Tier 2 pursuant to section ~~61~~ 701, and who  
2 has met the service requirements he or she would have been  
3 required to meet in order to vest in health benefits under sec-  
4 tion 509.

5       Sec. 716. A qualified participant who was a member,  
6 deferred vested member, or former nonvested member of Tier 1 who  
7 makes an election to participate in Tier 2 pursuant to section  
8 ~~61~~ 701, shall be credited with the years of service accrued  
9 under Tier 1 on the effective date of participation in Tier 2 for  
10 the purpose of meeting the vesting requirements for benefits  
11 under section ~~75~~ 715.

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

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