

# HOUSE BILL No. 5310

September 2, 2009, Introduced by Rep. Meadows and referred to the Committee on Health Policy.

A bill to amend 1992 PA 234, entitled "The judges retirement act of 1992," by amending the title and sections 105, 106, 111, 214, 214a, 217, 305, and 714 (MCL 38.2105, 38.2106, 38.2111, 38.2214, 38.2214a, 38.2217, 38.2305, and 38.2664), the title and sections 214, 217, 305, and 714 as amended by 2002 PA 95, section 105 as amended by 2008 PA 514, section 106 as amended by 1995 PA 193, and section 214a as added by 1999 PA 215, and by adding sections 214b, 309, 310, 311, 312, 313, and 314.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### TITLE

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

1 the retirement board; to establish certain reserves for the  
2 retirement system; to establish certain funds; to prescribe the  
3 powers and duties of certain state departments and certain state  
4 and local officials and employees; to provide for certain  
5 disqualifications; **TO MAKE APPROPRIATIONS**; to prescribe penalties  
6 and provide remedies; and to repeal acts and parts of acts.

7 Sec. 105. (1) Beginning January 1, 2002, except as otherwise  
8 provided in this subsection, "eligible retirement plan" means 1 or  
9 more of the following:

10 (a) An individual retirement account described in section  
11 408(a) of the internal revenue code, 26 USC 408.

12 (b) An individual retirement annuity described in section  
13 408(b) of the internal revenue code, 26 USC 408.

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

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

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

20 (f) An eligible plan under section 457(b) of the internal  
21 revenue code, 26 USC 457, that is maintained by a state, political  
22 subdivision of a state, or an agency or instrumentality of a state  
23 or political subdivision of a state and that separately accounts  
24 for amounts transferred into such eligible plan under section  
25 457(b) of the internal revenue code, 26 USC 457, from this  
26 retirement system, that accepts the distributee's eligible rollover  
27 distribution.

1 (g) Beginning January 1, 2008, a Roth individual retirement  
2 account as described in section 408A of the internal revenue code,  
3 26 USC 408A, subject to the rules that apply to rollovers from a  
4 traditional individual retirement account to a Roth individual  
5 retirement account.

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

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

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

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

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

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

22 (ii) A qualified plan described in section 401(a) of the  
23 internal revenue code, 26 USC 401, or an annuity contract described  
24 in section 403(b) of the internal revenue code, 26 USC 403, and the  
25 plan providers agree to separately account for the amounts paid,  
26 including any portion of the distribution that is includable in  
27 federal gross income, and the portion of the distribution which is

1 not so includable.

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

4 (4) Except as otherwise provided in this subsection, "final  
5 compensation" means the annual rate of compensation for the  
6 calendar year of retirement. For a member who retires on January 1,  
7 final compensation means the annual rate of compensation for the  
8 calendar year immediately preceding the date of retirement. Final  
9 compensation does not include an amount that exceeds the maximum  
10 salary set forth for that particular member or vested former member  
11 in the revised judicature act, if applicable. For a member who is a  
12 judge and who performs judicial duties for a limited period or a  
13 specific assignment as authorized by the supreme court pursuant to  
14 section 23 of article VI of the state constitution of 1963, final  
15 compensation means the annual rate of compensation the member was  
16 being paid at the termination of his or her tenure in office as an  
17 elected judge.

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

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

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

27 (8) **"FUNDING ACCOUNT" MEANS THE FUNDING ACCOUNT CREATED**

1 PURSUANT TO THE PUBLIC EMPLOYEE RETIREMENT HEALTH CARE FUNDING ACT  
2 FOR THE DEPOSIT OF FUNDS AND PAYMENT OF MEDICAL EXPENSES.

3 (9) "HEALTH REIMBURSEMENT ACCOUNT" MEANS AN EMPLOYER-SPONSORED  
4 INDIVIDUAL ACCOUNT WITHIN THE IRREVOCABLE TRUST ADMINISTERED BY THE  
5 TRUSTEES THAT ALLOWS AN HRA MEMBER AND HIS OR HER EMPLOYER TO SAVE  
6 MONEY FOR REIMBURSEMENT OF MEDICAL EXPENSES THAT WILL BE INCURRED  
7 ON BEHALF OF THE HRA MEMBER OR HIS OR HER HEALTH REIMBURSEMENT  
8 ACCOUNT DEPENDENTS AFTER THE HRA MEMBER BECOMES A FORMER MEMBER OR  
9 FORMER QUALIFIED PARTICIPANT.

10 (10) "HEALTH REIMBURSEMENT ACCOUNT DEPENDENT" MEANS AN HRA  
11 MEMBER'S SPOUSE OR A SURVIVING SPOUSE AND ANY INDIVIDUAL WHO IS  
12 CONSIDERED THE HRA MEMBER'S DEPENDENT UNDER SECTION 152 OF THE  
13 INTERNAL REVENUE CODE, 26 USC 152, DETERMINED WITHOUT REGARD TO  
14 SECTION 152(B)(1) OR (2) OR (D)(1)(B) OF THE INTERNAL REVENUE CODE,  
15 26 USC 152.

16 (11) "HRA EFFECTIVE DATE" MEANS THE DATE SPECIFIED BY THE  
17 RETIREMENT BOARD WHICH SHALL BE NO LATER THAN 1 YEAR FOLLOWING THE  
18 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION AND  
19 NO SOONER THAN THE DATE THAT THE DEPARTMENT CERTIFIES THAT THE  
20 ADMINISTRATIVE AND OPERATIONAL COMPONENTS FOR THE HEALTH  
21 REIMBURSEMENT ACCOUNTS HAVE BEEN COMPLETED.

22 (12) "HRA MEMBER" MEANS A MEMBER OR QUALIFIED PARTICIPANT WHO  
23 IS REQUIRED TO MAKE MANDATORY CONTRIBUTIONS TO HIS OR HER HEALTH  
24 REIMBURSEMENT ACCOUNT. AN HRA MEMBER SHALL NOT INCLUDE ANY PLAN 1  
25 MEMBER OR ANY PLAN 2 MEMBER UNDER THIS ACT.

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

1 board.

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

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

8 (4) "MANDATORY CONTRIBUTIONS" MEANS REQUIRED CONTRIBUTIONS  
9 MADE UNDER THIS ACT BY HRA MEMBERS. THE DEPARTMENT SHALL ADMINISTER  
10 CONTRIBUTIONS MADE TO THE HEALTH REIMBURSEMENT ACCOUNT SO THAT THEY  
11 MAY BE CHARACTERIZED IN THE MANNER THAT THE DEPARTMENT DETERMINES  
12 IS MOST FAVORABLE UNDER THE INTERNAL REVENUE CODE, 26 USC 1 TO  
13 1789. MANDATORY CONTRIBUTIONS MAY ALSO INCLUDE ANY OTHER AMOUNTS  
14 ESTABLISHED BY THE EMPLOYER WHICH MAY BE TREATED AS PICKED UP BY  
15 THE EMPLOYER TO THE FULLEST EXTENT PERMITTED UNDER THE INTERNAL  
16 REVENUE CODE.

17 (5) ~~(4)~~ "Medical adviser" means the medical adviser of the  
18 retirement system as provided in section 205.

19 (6) "MEDICAL EXPENSES" MEANS EXPENSES INCURRED BY AN HRA  
20 MEMBER OR HIS OR HER HEALTH REIMBURSEMENT ACCOUNT DEPENDENTS THAT  
21 SATISFY ALL OF THE FOLLOWING CONDITIONS:

22 (A) THE EXPENSES ARE MEDICAL CARE EXPENSES THAT WOULD  
23 OTHERWISE QUALIFY FOR A DEDUCTION UNDER SECTION 213 OF THE INTERNAL  
24 REVENUE CODE, 26 USC 213, WITHOUT REGARD TO THE INCOME THRESHOLD IN  
25 SECTION 213(A) OF THE INTERNAL REVENUE CODE, 26 USC 213(A).

26 (B) THE EXPENSES HAVE NOT BEEN AND WILL NOT BE REIMBURSED BY  
27 ANY OTHER SOURCE.

1 (C) THE EXPENSES MUST HAVE BEEN INCURRED AFTER THE HRA MEMBER  
2 BECOMES A FORMER MEMBER OR FORMER QUALIFIED PARTICIPANT OR AFTER  
3 THE DEATH OF AN HRA MEMBER.

4 (D) THE INDIVIDUAL PROPERLY AND TIMELY SUBSTANTIATES THE  
5 EXPENSES IN A MANNER ESTABLISHED BY THE RETIREMENT SYSTEM.

6 (7) ~~(5)~~—"Member" means a judge or state official who is  
7 included in the membership of the retirement system as provided in  
8 section 401.

9 (8) ~~(6)~~—"Membership service" means service performed as a  
10 member under this act or under the former judges retirement system  
11 or former probate judges retirement system.

12 Sec. 111. (1) "Vested former member" means a member who is  
13 entitled to a deferred vested service retirement allowance under  
14 section 502.

15 (2) "VOLUNTARY CONTRIBUTIONS" MEANS VOLUNTARY AMOUNTS  
16 CONTRIBUTED BY AN HRA MEMBER INTO A HEALTH REIMBURSEMENT ACCOUNT.  
17 TO THE EXTENT REQUIRED BY APPLICABLE LAW, VOLUNTARY EMPLOYEE  
18 CONTRIBUTIONS SHALL NOT BE MADE THROUGH A SALARY REDUCTION ELECTION  
19 UNDER A CAFETERIA PLAN PURSUANT TO SECTION 125 OF THE INTERNAL  
20 REVENUE CODE, 26 USC 125.

21 Sec. 214. (1) The reserve for health benefits is created. The  
22 EXCEPT AS PROVIDED IN THIS SECTION, THE retirement system shall  
23 deposit into the reserve for health benefits the member  
24 contributions for health benefits required by section 305(1)(a),  
25 amounts transferred pursuant to section 217(1), and accumulated  
26 earnings on these amounts and contributions. The retirement system  
27 shall disburse from the reserve for health benefits the premiums

1 for hospital and medical-surgical and sick care benefits as  
2 required by sections 509 and 719 **BEFORE MAKING ANY DISBURSEMENT**  
3 **FROM THE FUNDING ACCOUNT.**

4 (2) ON AND AFTER THE DATE OF THE AMENDATORY ACT THAT ADDED  
5 THIS SUBSECTION, THE RETIREMENT SYSTEM SHALL DEPOSIT INTO THE  
6 FUNDING ACCOUNT THE MEMBER CONTRIBUTIONS FOR HEALTH BENEFITS  
7 REQUIRED BY SECTION 305(1)(A), AMOUNTS TRANSFERRED PURSUANT TO  
8 SECTION 217(1), AND QUALIFIED PARTICIPANT CONTRIBUTIONS REQUIRED BY  
9 SECTION 714(6).

10 Sec. 214a. (1) Following the date of the determination  
11 described in subsection (11) and following the date of the election  
12 made under subsection (4), the retirement system shall provide  
13 postretirement medical benefits for eligible judges and their  
14 health benefit dependents and postdeath medical benefits for health  
15 benefit dependents who survive a deceased contributor. Medical  
16 benefits shall be provided from a separate account established  
17 under the retirement system pursuant to section 401(h) of the  
18 United States internal revenue code, **26 USC 401.**

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



1           (3) A separate account, designated as the "medical benefit  
2 administrative account", shall be maintained within the reserve for  
3 health benefits. Administrative costs of maintaining the medical  
4 benefit account shall be paid out of the medical benefit  
5 administrative account. Eligible judges making contributions to the  
6 medical benefit account consent as a condition of participation  
7 that transfers may be made from the subaccounts of each contributor  
8 to the medical benefit administrative account equal to no more than  
9 25% of the earnings of funds on account in their respective  
10 subaccounts.

11           (4) Upon becoming a member of Tier 1 or a qualified  
12 participant in Tier 2, and at such other times as the department  
13 shall permit, an eligible judge may elect to become a contributor  
14 and make contributions to the medical benefit account in an amount  
15 not to exceed the maximum contribution then permitted under  
16 subsection (5). Each eligible judge who is a member of Tier 1 or a  
17 qualified participant in Tier 2 may elect to make contributions to  
18 the medical benefit account during an election period of not less  
19 than 90 days as determined by the retirement system. Within the  
20 medical benefit account, the department shall maintain a subaccount  
21 for each contributor that reflects all contributions made by or for  
22 that contributor, adjusted for investment experience and payment of  
23 medical benefits. The employer of the contributor shall pick up the  
24 contributor's contributions in whole or in part and may require  
25 that its contributions be derived from a reduction in the  
26 contributor's cash salary. If the contributor's contributions are  
27 picked up by the employer on a salary-reduction basis, the

1 contributor's election shall be irrevocable to the extent required  
2 by section 401(h) of the United States internal revenue code, **26**  
3 **USC 401**. Contributions picked up under this subsection on a salary-  
4 reduction basis are not included as gross taxable income of the  
5 contributor. The value of medical benefits provided from a  
6 contributor's subaccount shall not be included in the income of the  
7 retired contributor or the contributor's health benefit dependents.

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

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

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

11           (b) Payment or reimbursement of premiums or other charges for  
12 coverage of the retired contributor and the contributor's health  
13 benefit dependents under any group health plan within the meaning  
14 of section 5000(b)(1) of the United States internal revenue code,  
15 **26 USC 5000**.

16           (c) Payment or reimbursement of premiums or other charges to  
17 obtain health insurance coverage within the meaning of section  
18 9832(b)(1) of the United States internal revenue code, **26 USC 9832**,  
19 for the retired contributor and the contributor's health benefit  
20 dependents.

21           (d) Payment or reimbursement of expenses paid or incurred for  
22 the medical care, as defined in section 213(d)(1) of the United  
23 States internal revenue code, **26 USC 213**, of the retired  
24 contributor and the contributor's health benefit dependents.

25           Payment or reimbursement of premiums, charges, and expenses  
26 shall be made only upon presentation of proper documentary evidence  
27 of amounts, dates of coverage or service, recipient of coverage or

1 service, and such other information as the department shall  
2 require.

3 (7) While a contributor or retired contributor remains alive,  
4 the department shall comply with the contributor's written  
5 directions in regard to the type of medical benefits to be provided  
6 under this subsection and the allocation of the medical benefits  
7 among the retired contributor and the contributor's health benefit  
8 dependents if the directions comply with this subsection and the  
9 requirements of the department in regard to the form and content of  
10 the written directions. The department shall also afford each  
11 contributor the opportunity to give written directions in regard to  
12 the allocation of medical benefits to and among some or all of the  
13 contributor's surviving health benefit dependents following the  
14 contributor's death as designated on a beneficiary form developed  
15 by the retirement system. Upon death of the contributor and while  
16 funds remain in the contributor's subaccount, the department shall  
17 observe the written directions in allocating medical benefits among  
18 the contributor's surviving health benefit dependents, while giving  
19 the dependents or their legal representatives a reasonable  
20 opportunity to select the type of medical benefits to be provided.  
21 In the absence of valid written directions from the contributor in  
22 regard to the allocation of medical benefits following the  
23 contributor's death, the department shall allocate funds remaining  
24 in the contributor's subaccount to provide medical benefits to the  
25 contributor's surviving health benefit dependents, until all funds  
26 have been expended.

27 (8) If there is a balance remaining in the subaccount of a

1 contributor or retired contributor following the deaths of the  
2 contributor and all of the contributor's health benefit dependents,  
3 then that balance shall be forfeited and distributed to the medical  
4 benefit administrative account.

5 (9) As used in this section:

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

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

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

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

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

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

1 purposes.

2 (12) A JUDGE ELIGIBLE TO ESTABLISH AND MAINTAIN A MEDICAL  
3 BENEFIT ACCOUNT UNDER THIS SECTION MAY INSTEAD ESTABLISH AND  
4 MAINTAIN A HEALTH REIMBURSEMENT ACCOUNT.

5 SEC. 214B. (1) HEALTH REIMBURSEMENT ACCOUNTS SHALL BE  
6 ESTABLISHED AND MAINTAINED WITHIN THE IRREVOCABLE TRUST ESTABLISHED  
7 PURSUANT TO THE PUBLIC EMPLOYEE RETIREMENT HEALTH CARE FUNDING ACT.  
8 THE HEALTH REIMBURSEMENT ACCOUNTS SHALL RECEIVE AND HOLD THE FUNDS  
9 COLLECTED UNDER SECTION 309. ALL HEALTH REIMBURSEMENT ACCOUNTS  
10 SHALL BE ESTABLISHED IN A MANNER THAT COMPLIES WITH ALL RELEVANT  
11 STATUTORY PROVISIONS, REGULATORY PROVISIONS, AND INTERNAL REVENUE  
12 SERVICE RULINGS GOVERNING HEALTH REIMBURSEMENT ARRANGEMENTS.  
13 DEPOSITS TO HEALTH REIMBURSEMENT ACCOUNTS SHALL INCLUDE EMPLOYER  
14 CONTRIBUTIONS AND OTHER PERMITTED CONTRIBUTIONS, THE DEPOSIT OF  
15 WHICH IS AUTHORIZED BY THIS ACT.

16 (2) THE RETIREMENT BOARD IS AUTHORIZED TO ESTABLISH AN  
17 ADMINISTRATIVE AND INVESTMENT FEE STRUCTURE TO BE CHARGED AGAINST  
18 THE HEALTH REIMBURSEMENT ACCOUNTS TO DEFRAY THE COSTS OF  
19 ADMINISTERING THE HEALTH REIMBURSEMENT ACCOUNTS.

20 (3) TO THE EXTENT SUCH ACTIVITY WILL NOT RESULT IN IMMEDIATE  
21 TAXATION OF THE CONTRIBUTIONS TO THE HEALTH REIMBURSEMENT ACCOUNTS  
22 OF THE HRA MEMBER UNDER STATE AND FEDERAL LAW, VESTED CONTRIBUTIONS  
23 TO A HEALTH REIMBURSEMENT ACCOUNT AND ANY INVESTMENT INCOME MAY BE  
24 DISTRIBUTED TO A DECEASED HRA MEMBER'S BENEFICIARIES OR ESTATE IF A  
25 BALANCE OF FUNDS EXISTS IN THE DECEASED HRA MEMBER'S HEALTH  
26 REIMBURSEMENT ACCOUNT AND ALL MEDICAL EXPENSES HAVE BEEN PAID FOR  
27 THE DECEASED HRA MEMBER AND ALL OF HIS OR HER HEALTH REIMBURSEMENT

1 ACCOUNT DEPENDENTS.

2 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY ASSETS  
3 REMAINING IN ANY INDIVIDUAL HEALTH REIMBURSEMENT ACCOUNT AFTER ALL  
4 PAYMENTS FOR COSTS OF ELIGIBLE MEDICAL EXPENSES FOR THE INDIVIDUAL  
5 HRA MEMBER AND HIS OR HER HEALTH REIMBURSEMENT ACCOUNT DEPENDENTS  
6 HAVE BEEN PAID SHALL BE DISTRIBUTED TO THE FUNDING ACCOUNT.

7 Sec. 217. (1) A court fee fund is created in the state  
8 treasury. The state treasurer shall deposit into the court fee fund  
9 all money received from the executive secretary pursuant to section  
10 304(4). The state treasurer shall, if funds remain in the court fee  
11 fund after the transfer described in subsection (3), transmit a  
12 portion of the money in the court fee fund, not exceeding  
13 \$2,200,000.00 in any fiscal year, to the court equity fund created  
14 by section 151b of the revised judicature act of 1961, 1961 PA 236,  
15 MCL 600.151b. If the court fee fund exceeds \$2,200,000.00 in any  
16 fiscal year and \$2,200,000.00 is transmitted to the court equity  
17 fund, an amount may be appropriated from the court fee fund for  
18 operational expenses of trial courts. Operational expenses may  
19 include the payment of salaries of trial court judges other than  
20 judges of the district court. Any money remaining in the court fee  
21 fund at the end of the fiscal year shall remain in the court fee  
22 fund and shall not revert to the general fund. **AMOUNTS IN THE COURT**  
23 **FEE FUND MAY BE USED FOR THE APPROPRIATION AUTHORIZED UNDER SECTION**  
24 **315.**

25 (2) Notwithstanding any other provision of this act, if the  
26 retirement board establishes an arrangement and fund described in  
27 section 6 of the public employee retirement benefit ~~preservation~~

1 **PROTECTION** act, 2002 PA 100, MCL 38.1686, the benefits that are  
2 required to be paid from that fund shall, to the extent permitted  
3 by applicable law, be paid from a portion of the money in the court  
4 fee fund and any earnings on those amounts or other eligible funds.  
5 The retirement board shall determine the amount of the employer  
6 contributions or other eligible funds that shall be allocated to  
7 that fund and deposit that amount in that fund.

8 (3) The state treasurer shall, if funds remain in the court  
9 fee fund after the transfer described in subsection (2), transmit a  
10 portion of the money in the court fee fund and any earnings on  
11 those amounts to the ~~reserve for health benefits created by section~~  
12 ~~214~~ **FUNDING ACCOUNT** to pay expected health care costs for the  
13 subsequent fiscal year that are not covered as a result of employee  
14 contributions under sections 305(1) and 714(6), and to pay, in an  
15 amount not to exceed \$100,000.00 in each fiscal year, any health  
16 care costs not paid from the reserve for health benefits since  
17 fiscal year 1996-1997.

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

22 Sec. 305. (1) Each member, upon taking office and so long as  
23 he or she remains in office, shall make contributions to the  
24 retirement system according to the applicable plan member  
25 classification as follows:

26 (a) A plan 1 member or a plan 2 member shall contribute 5% of  
27 the member's compensation. From this contribution, the retirement



1 system shall deposit an amount equal to 2.0% of the member's  
2 compensation into the ~~reserve for health benefits for hospital and~~  
3 ~~medical surgical and sick care benefits as provided in section 509~~

4 **FUNDING ACCOUNT.**

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

7 (c) A plan 3c member, a plan 4 member, a plan 6 member, or a  
8 plan 7 member shall contribute 7% of the member's compensation.

9 However, a plan 6 member shall not contribute more than \$980.00  
10 annually.

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

15 (3) Upon written notice from the executive secretary to the  
16 state court administrator, the state treasurer shall withhold  
17 payment of the amount due from the salary standardization payment  
18 payable to a county or district control unit for member  
19 contributions that are not received by the retirement system within  
20 60 days after the due date.

21 **SEC. 309. (1) IF AN HRA MEMBER HAS AN AMOUNT OF SALARY REDUCED**  
22 **FOR CONTRIBUTION TO THE HEALTH REIMBURSEMENT ACCOUNT, THE DEDUCTION**  
23 **TOGETHER WITH ANY OTHER CONTRIBUTIONS UNDER THIS SECTION SHALL**  
24 **PROMPTLY BE CREDITED TO THAT HRA MEMBER'S HEALTH REIMBURSEMENT**  
25 **ACCOUNT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY MANDATORY**  
26 **CONTRIBUTION SHALL BE TREATED AS A SALARY INCREASE THAT HAS BEEN**  
27 **FORGONE BY THE EMPLOYEE AND AS STATED IN THE REVISED JUDICATURE ACT**

1 OF 1961, 1961 PA 236, MCL 600.101 TO 600.9947.

2 (2) BEGINNING ON THE HRA EFFECTIVE DATE, A MEMBER OR QUALIFIED  
3 PARTICIPANT SHALL MAKE A MANDATORY CONTRIBUTION EQUAL TO 2% OF THE  
4 MEMBER'S OR QUALIFIED PARTICIPANT'S COMPENSATION TO HIS OR HER  
5 HEALTH REIMBURSEMENT ACCOUNT. THIS SUBSECTION DOES NOT APPLY TO A  
6 MEMBER OR QUALIFIED PARTICIPANT WHO IS FIRST HIRED PRIOR TO THE  
7 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION AND  
8 WHO IS COVERED BY A LOCAL HEALTH BENEFIT PLAN FOR RETIREES.

9 (3) AN HRA MEMBER MAY ALSO MAKE VOLUNTARY CONTRIBUTIONS TO THE  
10 HEALTH REIMBURSEMENT ACCOUNT IN A WHOLE PERCENTAGE RANGING FROM 1%  
11 TO 5% OF THE COMPENSATION PAID TO THE HRA MEMBER, SUBJECT TO ANY  
12 LIMIT PROVIDED UNDER STATE OR FEDERAL LAW.

13 (4) THE EMPLOYER OF AN HRA MEMBER MAY CONTRIBUTE AN ADDITIONAL  
14 AMOUNT TO THE HRA MEMBER'S HEALTH REIMBURSEMENT ACCOUNT AS  
15 DETERMINED BY THE EMPLOYER.

16 (5) THIS SECTION SHALL NOT APPLY TO PLAN 1 MEMBERS OR PLAN 2  
17 MEMBERS.

18 SEC. 310. (1) A MEMBER OR QUALIFIED PARTICIPANT IS 100% VESTED  
19 IN MANDATORY AND VOLUNTARY CONTRIBUTIONS MADE TO HIS OR HER HEALTH  
20 REIMBURSEMENT ACCOUNT.

21 (2) A MEMBER OR QUALIFIED PARTICIPANT IS VESTED IN EMPLOYER  
22 CONTRIBUTIONS MADE TO HIS OR HER HEALTH REIMBURSEMENT ACCOUNT  
23 ACCORDING TO THE FOLLOWING SCHEDULE:

24 (A) FIFTY PERCENT VESTED AFTER EARNING 2 YEARS OF SERVICE  
25 UNDER THIS ACT.

26 (B) SEVENTY-FIVE PERCENT VESTED AFTER EARNING 3 YEARS OF  
27 SERVICE UNDER THIS ACT.

1 (C) ONE HUNDRED PERCENT VESTED AFTER EARNING 4 YEARS OR MORE  
2 OF SERVICE UNDER THIS ACT.

3 (3) AN HRA MEMBER SHALL HAVE CONTRACTUAL RIGHTS TO  
4 REIMBURSEMENT OF MEDICAL EXPENSES UNDER THIS ACT TO THE EXTENT  
5 FUNDS EXIST IN HIS OR HER HEALTH REIMBURSEMENT ACCOUNT.

6 SEC. 311. (1) THE RETIREMENT BOARD SHALL ESTABLISH A  
7 SEPARATELY WRITTEN PLAN DOCUMENT WHICH SHALL GOVERN THE TERMS AND  
8 CONDITIONS OF THE REIMBURSEMENT OF MEDICAL EXPENSES FROM THE HEALTH  
9 REIMBURSEMENT ACCOUNTS IN A MANNER THAT COMPLIES WITH ALL  
10 APPLICABLE STATUTORY PROVISIONS, REGULATORY PROVISIONS, AND  
11 INTERNAL REVENUE SERVICE RULINGS GOVERNING HEALTH REIMBURSEMENT  
12 ARRANGEMENTS.

13 (2) FOLLOWING TERMINATION OF EMPLOYMENT, REIMBURSEMENTS OF  
14 MEDICAL EXPENSES SHALL BE MADE TO AN HRA MEMBER OR THE HEALTH  
15 REIMBURSEMENT ACCOUNT DEPENDENTS FROM THE HRA MEMBER'S HEALTH  
16 REIMBURSEMENT ACCOUNT, AS APPROPRIATE, AT LEAST QUARTERLY, UNTIL  
17 THE HRA MEMBER'S HEALTH REIMBURSEMENT ACCOUNT IS EXHAUSTED.

18 (3) NOTWITHSTANDING ANYTHING TO THE CONTRARY, CLAIMS THAT ARE  
19 INCURRED BEFORE THE HRA MEMBER BECAME ENTITLED TO RECEIVE  
20 REIMBURSEMENTS UNDER THIS ACT ARE NOT ELIGIBLE MEDICAL EXPENSES.

21 SEC. 312. EXCEPT FOR MEDICAL EXPENSES TO BE PAID FROM AMOUNTS  
22 WITHIN A HEALTH REIMBURSEMENT ACCOUNT, NOTHING IN THIS ACT SHALL BE  
23 CONSTRUED TO DEFINE OR OTHERWISE GRANT ANY RIGHT OR PRIVILEGE TO  
24 HEALTH CARE BENEFITS OR OTHER POSTEMPLOYMENT BENEFITS TO ANY PERSON  
25 OTHER THAN THOSE HEALTH CARE BENEFITS OR OTHER POSTEMPLOYMENT  
26 BENEFITS, RIGHTS, OR PRIVILEGES PREVIOUSLY OR ALREADY GRANTED TO  
27 MEMBERS AND QUALIFIED PARTICIPANTS AND THEIR DEPENDENTS BY THIS

1 ACT. THIS ACT IS NOT INTENDED TO ASSURE OR DENY TO ANY EXISTING OR  
2 FUTURE EMPLOYEE, HRA MEMBER, ANY OF THEIR HEALTH REIMBURSEMENT  
3 ACCOUNT DEPENDENTS, OR ANY OTHER PERSON ANY RIGHT OF ENTITLEMENT TO  
4 ANY HEALTH CARE BENEFIT OR OTHER POSTEMPLOYMENT BENEFIT OR LIMIT OR  
5 OTHERWISE RESTRICT THE ABILITY OF THIS STATE OR ANY EMPLOYER TO  
6 MODIFY OR ELIMINATE ANY EXISTING OR FUTURE HEALTH CARE BENEFIT OR  
7 OTHER POSTEMPLOYMENT BENEFIT.

8 SEC. 313. IF A CHANGE OR ERROR IN ANY RECORDS RESULTS IN AN  
9 HRA MEMBER OR HIS OR HER HEALTH REIMBURSEMENT ACCOUNT DEPENDENTS  
10 PAYING INTO OR RECEIVING MORE OR LESS THAN THE HRA MEMBER OR HIS OR  
11 HER HEALTH REIMBURSEMENT ACCOUNT DEPENDENTS SHOULD HAVE PAID OR  
12 WOULD HAVE BEEN ENTITLED TO RECEIVE HAD THE RECORDS BEEN CORRECT,  
13 THE RETIREMENT BOARD SHALL CORRECT THE ERROR AND, AS FAR AS  
14 PRACTICABLE, SHALL ADJUST THE PAYMENT TO CORRECT FOR THE CHANGE OR  
15 ERROR.

16 SEC. 314. EXCEPT AS PROVIDED IN SECTION 214B(3), DISTRIBUTION  
17 FROM THE TRUSTS WILL NOT BE TREATED AS TAXABLE INCOME TO THE HRA  
18 MEMBERS OR THEIR HEALTH REIMBURSEMENT ACCOUNT DEPENDENTS BY THIS  
19 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.

20 Sec. 714. (1) This section is subject to the vesting  
21 requirements of section 715.

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

25 (3) A qualified participant may periodically elect to  
26 contribute up to 3% of his or her salary to his or her Tier 2  
27 account. The qualified participant's employer shall make an

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

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

10 (5) A qualified participant who makes a written election under  
11 section 701a may elect to contribute up to 6% of his or her salary  
12 to his or her Tier 2 account. In lieu of employer contributions  
13 under subsection (3), the qualified participant's employer shall  
14 make an additional contribution to the qualified participant's Tier  
15 2 account in an amount equal to the contribution made by the  
16 qualified participant under this subsection. This subsection  
17 applies for a period as determined by the department that equals  
18 the time in which a Tier 1 member was not able to make  
19 contributions to the Tier 2 plan because of the temporary  
20 restraining order issued in the case of Michigan judges assn v  
21 Treasurer of the State of Michigan, case no. 98-DT-72771-CV (Ed  
22 Mi).

23 (6) Beginning January 1, 2002 **AND ENDING ON THE EFFECTIVE DATE**  
24 **OF THE AMENDATORY ACT THAT ADDED SECTION 309**, each qualified  
25 participant who is a plan 1 member or a plan 2 member, upon taking  
26 office and so long as he or she remains in office, shall contribute  
27 2.0% of the qualified participant's compensation to the retirement

1 system. The retirement system shall deposit the contribution under  
2 this subsection into the reserve for health benefits for hospital  
3 and medical-surgical and sick care benefits as provided in section  
4 719.

5 (7) BEGINNING ON THE DAY AFTER THE EFFECTIVE DATE OF THE  
6 AMENDATORY ACT THAT ADDED SECTION 309, EACH QUALIFIED PARTICIPANT  
7 WHO IS A PLAN 1 MEMBER OR PLAN 2 MEMBER, UPON TAKING OFFICE AND SO  
8 LONG AS HE OR SHE REMAINS IN OFFICE, SHALL CONTRIBUTE 2.0% OF THE  
9 QUALIFIED PARTICIPANT'S COMPENSATION TO THE FUNDING ACCOUNT.

10 Enacting section 1. This amendatory act does not take effect  
11 unless House Bill No. 4073 of the 95th Legislature is enacted into  
12 law.