

**THE JUDGES RETIREMENT ACT OF 1992 (EXCERPT)**  
**Act 234 of 1992**

ARTICLE II

**38.2201 Michigan judges retirement system; creation; purpose.**

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

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

**38.2202 Michigan judges retirement board; creation within department; membership; terms; vacancy; compensation and expenses.**

Sec. 202. (1) The Michigan judges retirement board is created in the department. The retirement board consists of the following 5 retirement board members:

(a) The state treasurer.

(b) The attorney general.

(c) One judge who is a member of the retirement system appointed by the governor with the advice and consent of the senate.

(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) 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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993;—Am. 1999, Act 215, Eff. May 30, 2000.

**Compiler's note:** For transfer of powers and duties of Judges retirement board to Michigan retirement board, and abolishment of judges retirement board, see E.R.O. No. 2015-4, compiled at MCL 38.1174.

**38.2203 Retirement board member; oath; quorum; unexcused absences; election of chairperson and vice chairperson.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

**38.2204 Retirement board; duties pursuant to MCL 16.101 to 16.608; rules; conducting business at public meeting; writings available to public.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2205 Management functions; director of bureau of retirement systems as executive secretary; employees.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2206 State treasurer as treasurer of retirement system; authority; duties.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2207 Attorney general as retirement board attorney.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2208 Administration of retirement system.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2209 Annual report.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2210 Reserve for member contributions.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2211 Reserve for employer contributions.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2212 Reserve for retirement benefits.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2213 Reserve for investment income.**

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 except for those of the reserve for health benefits created under section 214. 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 except for those of the reserve for health benefits created under section 214; 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, 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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993;—Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002.

### **38.2214 Reserve for health benefits.**

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), amounts transferred pursuant to section 217(1), and accumulated earnings on these amounts and contributions. 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 sections 509 and 719.

**History:** 1992, Act 234, Eff. Mar. 31, 1993;—Am. 1996, Act 523, Eff. Mar. 31, 1997;—Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002.

\*\*\*\*\* 38.2214a THIS SECTION IS REPEALED BY ACT 215 OF 1999 EFFECTIVE ON THE DATE THE SETTLEMENT AGREEMENT IN THE CASE OF MICHIGAN JUDGES ASSN V TREASURER OF THE STATE OF MICHIGAN, CASE NO. 98-DT-72771-CV (ED MI), BECOMES OF NO FURTHER FORCE AND EFFECT, IS RENDERED NULL AND VOID, OR IS OTHERWISE TERMINATED \*\*\*\*\*

### **38.2214a Postretirement medical benefits.**

Sec. 214a. (1) Following the date of the determination described in subsection (11) and following the date of the election made under subsection (4), the retirement system shall provide postretirement medical benefits

for eligible judges and their health benefit dependents and postdeath medical benefits for health benefit dependents who survive a deceased contributor. Medical benefits shall be provided from a separate account established under the retirement system pursuant to section 401(h) of the United States internal revenue code.

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

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

(4) Upon becoming a member of Tier 1 or a qualified participant in Tier 2, and at such other times as the department shall permit, an eligible judge may elect to become a contributor and make contributions to the medical benefit account in an amount not to exceed the maximum contribution then permitted under subsection (5). Each eligible judge who is a member of Tier 1 or a qualified participant in Tier 2 may elect to make contributions to the medical benefit account during an election period of not less than 90 days as determined by the retirement system. Within the medical benefit account, the department shall maintain a subaccount for each contributor that reflects all contributions made by or for that contributor, adjusted for investment experience and payment of medical benefits. The employer of the contributor shall pick up the contributor's contributions in whole or in part and may require that its contributions be derived from a reduction in the contributor's cash salary. If the contributor's contributions are picked up by the employer on a salary-reduction basis, the contributor's election shall be irrevocable to the extent required by section 401(h) of the United States internal revenue code. Contributions picked up under this subsection on a salary-reduction basis are not included as gross taxable income of the contributor. The value of medical benefits provided from a contributor's subaccount shall not be included in the income of the retired contributor or the contributor's health benefit dependents.

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

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

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

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

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

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

Payment or reimbursement of premiums, charges, and expenses shall be made only upon presentation of

proper documentary evidence of amounts, dates of coverage or service, recipient of coverage or service, and such other information as the department shall require.

(7) While a contributor or retired contributor remains alive, the department shall comply with the contributor's written directions in regard to the type of medical benefits to be provided under this subsection and the allocation of the medical benefits among the retired contributor and the contributor's health benefit dependents if the directions comply with this subsection and the requirements of the department in regard to the form and content of the written directions. The department shall also afford each contributor the opportunity to give written directions in regard to the allocation of medical benefits to and among some or all of the contributor's surviving health benefit dependents following the contributor's death as designated on a beneficiary form developed by the retirement system. Upon death of the contributor and while funds remain in the contributor's subaccount, the department shall observe the written directions in allocating medical benefits among the contributor's surviving health benefit dependents, while giving the dependents or their legal representatives a reasonable opportunity to select the type of medical benefits to be provided. In the absence of valid written directions from the contributor in regard to the allocation of medical benefits following the contributor's death, the department shall allocate funds remaining in the contributor's subaccount to provide medical benefits to the contributor's surviving health benefit dependents, until all funds have been expended.

(8) If there is a balance remaining in the subaccount of a contributor or retired contributor following the deaths of the contributor and all of the contributor's health benefit dependents, then that balance shall be forfeited and distributed to the medical benefit administrative account.

(9) As used in this section:

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

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

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

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

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

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

**History:** Add. 1999, Act 215, Eff. May 30, 2000.

### **38.2215 Determination of actuarial cost; establishing method; calculation.**

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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993.

### **38.2216 Compliance with reciprocal retirement act.**

Sec. 216. The retirement system shall comply with the reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, if a resolution electing to come under the provisions of the reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, is in effect.

**History:** 1992, Act 234, Eff. Mar. 31, 1993;—Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002.

### **38.2217 Court fee fund; applicability of section.**

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,

if funds remain in the court fee fund after the transfer described in subsection (3), transmit a portion of the money in the court fee fund, not exceeding \$2,200,000.00 in any fiscal year, to the court equity fund created by section 151b of the revised judicature act of 1961, 1961 PA 236, MCL 600.151b. If the court fee fund exceeds \$2,200,000.00 in any fiscal year and \$2,200,000.00 is transmitted to the court equity fund, an amount may be appropriated from the court fee fund for operational expenses of trial courts. Operational expenses may include the payment of salaries of trial court judges other than judges of the district court. 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) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund described in section 6 of the public employee retirement benefit preservation act, the benefits that are required to be paid from that fund shall, to the extent permitted by applicable law, be paid from a portion of the money in the court fee fund and any earnings on those amounts or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund.

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

(4) 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.

**History:** 1992, Act 234, Eff. Mar. 31, 1993;—Am. 1996, Act 525, Imd. Eff. Jan. 13, 1997;—Am. 1998, Act 99, Imd. Eff. May 28, 1998;—Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002.

**Compiler's note:** In subsection (2), the reference to the "public employee retirement benefit preservation act" evidently should be a reference to the "public employee retirement benefit protection act," (MCL 38.1681 et seq.).