

## THE JUDGES RETIREMENT ACT OF 1992 (EXCERPT)

### Act 234 of 1992

#### ARTICLE IV

#### **38.2401 Retirement system; members; membership form; conditions for ceasing membership.**

Sec. 401. (1) Each of the following is a member of the retirement system:

(a) A person who is duly elected or appointed as a judge or state official on or after the effective date of this act, unless within 30 days from taking office the judge or state official files a written notice not to participate in the retirement system with the retirement system.

(b) A person who was a member of the former judges retirement system or former probate judges retirement system on the day before the effective date of this act and who remains a judge or state official on and after the effective date of this act.

(c) A person, other than a retirant, who is authorized by the supreme court to perform judicial duties for a limited period or a specific assignment pursuant to section 23 of article VI of the state constitution of 1963 and who performs at least 20 days of service in a 30-consecutive day period.

(2) A judge or state official who becomes a member under subsection (1)(a) shall complete a membership form furnished by the retirement system and shall forward the form to the retirement system within 30 days of taking office. A judge or state official, upon becoming a member, is considered to have agreed that in the event of adjudication of the member's mental incompetency, a guardian, if appointed, has the power and authority to complete and execute the necessary application forms to retire the member as provided in section 507. In all cases of doubt, the retirement board shall decide the membership status of a judge or state official.

(3) The membership of a judge or state official in the retirement system ceases when the member retires, when the member forfeits his or her membership under the provisions of section 507, at the end of the judicial term in which the member who is a judge attains age 70, or upon ceasing to be a judge or state official unless the person is a vested former member.

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

#### **38.2401a Exclusion from Tier 1; eligibility as qualified participant in Tier 2.**

Sec. 401a. (1) Notwithstanding section 401, an individual described in this subsection is not a member of the Tier 1 retirement plan:

(a) An individual who first becomes a judge or state official on or after March 31, 1997.

(b) An individual who elects to terminate membership under section 701 or 701a and who, but for that election, would otherwise be eligible for membership in Tier 1 pursuant to section 401.

(2) An individual who first becomes a judge or state official on or after March 31, 1997 is eligible to be a qualified participant in Tier 2 subject to article VII.

**History:** Add. 1996, Act 523, Eff. Mar. 31, 1997;—Am. 1999, Act 215, Eff. May 30, 2000;—Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002.

#### **38.2402 Retirement board; determining service credits; forfeiture; reinstatement; service credit for limited period or specific assignment.**

Sec. 402. (1) The retirement board shall credit each member with the number of years and months of service for which the member performed service as a judge or state official. The retirement board shall credit service for the month in which the member's retirement becomes effective if the member retires from service before the end of the month and the member terminates his or her service after the fifteenth of the month. Except as provided in subsection (4), the retirement board shall not credit service for any month for which a member receives less than 1 month's salary. The retirement board shall not credit more than 1/12 of a year of service for all service rendered in a 30-consecutive day period. After a member who is a judge attains age 70, the retirement board shall not credit service after the end of the term in which the judge attains age 70.

(2) A member's credited service is forfeited at the time his or her membership terminates, except upon becoming a retirant or as provided in section 502.

(3) The retirement system shall reinstate credited service forfeited because of a break in membership in the member's service account if all of the following conditions are satisfied:

(a) The person, upon return to membership, acquires 6 months or more of credited service performed as a member of this retirement system subsequent to the break in service that caused the forfeiture.

(b) The member pays to the retirement system all accumulated contributions previously paid to the member, plus interest from the date of payment to the member to the date of repayment to the retirement system.

(4) Except as provided in this subsection and subject to the requirements of this subsection, the retirement system shall grant credited service to the same extent as provided in subsection (1) to a member who is serving as a judge for a limited period or a specific assignment as authorized by the supreme court pursuant to section 23 of article VI of the state constitution of 1963. The retirement system shall grant 1/12 of a year of credited service for a 30-consecutive day period in which a member described in this subsection performs service and receives a salary under the following circumstances:

(a) The member performs service for at least 20 days in the 30-consecutive day period.

(b) The member receives a salary that is not less than the pro rata of the state base salary for the court in which the service is performed.

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

### **38.2403 Election to purchase other public service credit; request; documentation; payment of actuarial cost; basis for calculating service credit.**

Sec. 403. (1) A member who has 4 or more years of membership service may elect to purchase service credit for other public service by filing a request with the retirement system. The member shall provide documentation of the other public service and shall pay into the reserve for member contributions the actuarial cost. The member shall relinquish for himself or herself and his or her beneficiaries all rights in and to a pension or annuity payable from another retirement system for the same period of service purchased under this section.

(2) The retirement system shall calculate the amount of service credit for other public service under subsection (1) on the same basis as provided in section 402(1).

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

### **38.2404 Election to purchase active duty service credit; request; documentation; payment to reserve; basis for calculating service credit.**

Sec. 404. (1) A member who has 12 or more years of credited service may elect to purchase not more than 2 years of service credit for active duty by filing a request with the retirement system. The member shall provide documentation of the active duty and shall pay into the reserve for member contributions an amount equal to 5% of the member's annualized rate of compensation at the time payment is made multiplied by the number of years and months of active duty service that the member elects to purchase up to the maximum. The member shall relinquish for himself or herself and his or her beneficiaries all rights in and to a pension or annuity payable from another retirement system for the same period of service purchased under this section.

(2) The retirement system shall calculate the amount of service credit for active duty under subsection (1) on the same basis as provided in section 402(1).

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

### **38.2405 Accumulated contributions; payment to person ceasing to be member; payment to refund beneficiary before retirement allowance is payable; payment to refund beneficiary if retirant and option A beneficiary, option B beneficiary, or spouse dies; nomination of refund beneficiary.**

Sec. 405. (1) Except as otherwise provided in this act, if a person ceases to be a member before satisfying the age and service requirements for a retirement allowance under section 501 or 501b, the retirement system shall pay to the person his or her accumulated contributions upon request.

(2) If a member dies and a retirement allowance is not or will not become payable on account of the member's death, the retirement system shall pay the deceased member's accumulated contributions at the time of death to the refund beneficiary. If a refund beneficiary is not nominated or the refund beneficiary fails to survive the deceased member, the retirement system shall pay the deceased member's accumulated contributions to the deceased member's estate or legal representative.

(3) If a retirant and his or her option A beneficiary, option B beneficiary, or spouse, if applicable, dies before an aggregate amount of retirement allowance equal to the deceased retirant's accumulated contributions at the time of retirement has been paid, the retirement system shall pay the difference between the deceased retirant's accumulated contributions and the aggregate amount of retirement allowance paid to the deceased retirant's refund beneficiary. If a refund beneficiary is not nominated or the refund beneficiary fails to survive the retirant and his or her option A beneficiary, option B beneficiary, or spouse, the retirement system shall pay the difference to the estate or legal representative of the last to die of the retirant or his or her option A beneficiary, option B beneficiary, or spouse.

(4) A judge or state official who becomes a member under section 401(1)(a) may nominate a refund beneficiary in the membership form under section 401 or a member, vested former member, or retirant may

nominate a refund beneficiary in a nominating form furnished by the retirement system. A member, vested former member, or retirant shall file the nominating form with the retirement system, which form is not valid until received by the retirement system. The member or retirant may nominate a different refund beneficiary by delivering a new nominating form to the retirement system. The retirement system shall disregard the nomination of a refund beneficiary in the membership form and all nominating forms previously filed by a member or retirant upon receipt of a more recent nominating form under this subsection.

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

**38.2406 Retirant authorized by supreme court to perform judicial duties for limited period or specific assignment; retirant elected or appointed by governor as judge or state official.**

Sec. 406. (1) If a retirant is authorized by the supreme court to perform judicial duties for a limited period or a specific assignment pursuant to section 23 of article VI of the state constitution of 1963, the retirement system shall continue payment of his or her retirement allowance without change in amount or conditions. A retirant is not a member during the period he or she performs judicial duties for a limited period or a specific assignment as authorized by the supreme court pursuant to section 23 of article VI of the state constitution of 1963.

(2) If a retirant is elected or appointed by the governor as a judge or state official, the retirement system shall suspend payment of the retirant's retirement allowance during the period he or she remains in office. The retirement system shall base the suspension of benefits on 1/12 of the annual retirement benefit for each month the retirant serves in the office to which he or she was elected or appointed. A retirant who is again elected as a judge or state official is a member pursuant to section 401. The retirement system shall recalculate the retirement allowance of a retirant who again becomes a member under this subsection if the member leaves office due to disability or death, or if the member again retires after serving 1 full term or more in office. A retirement allowance recalculated pursuant to this subsection is subject to section 503. The retirement system shall begin payment of the recalculated retirement allowance under this subsection to a person who again retires effective the first of the month following the month in which the person leaves office. If a retirant again becomes a member under this subsection but is not entitled to have his or her retirement allowance recalculated under this subsection, the retirement system shall begin payment of his or her retirement allowance without change in amount or conditions effective the first of the month following the month in which the person leaves office.

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