

THE JUDGES RETIREMENT ACT OF 1992 (EXCERPT)

Act 234 of 1992

***** 38.2214a THIS SECTION IS REPEALED BY ACT 215 OF 1999 EFFECTIVE ON THE DATE THE SETTLEMENT AGREEMENT IN THE CASE OF MICHIGAN JUDGES ASSN V TREASURER OF THE STATE OF MICHIGAN, CASE NO.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.