

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

***** 38.2651a THIS SECTION IS REPEALED BY ACT 215 OF 1999 EFFECTIVE ON THE DATE THE SETTLEMENT AGREEMENT IN THE CASE OF MICHIGAN JUDGES ASSN V TREASURER OF THE STATE OF MICHIGAN, CASE NO.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 *****

38.2651a Participation of judge of circuit court, probate court, or district court in Tier 1 or Tier 2; election; window of opportunity; method; disqualification for tax purposes.

Sec. 701a. (1) Except as otherwise provided in subsection (3), the retirement system shall provide an opportunity for each judge of the circuit court, probate court, or district court who was a member on March 30, 1997 to elect in writing to terminate membership in Tier 1 and elect to become a qualified participant in Tier 2. This section does not apply to an individual who was a member on March 30, 1997 and whose election to terminate membership in Tier 1 and become a qualified participant in Tier 2 under section 701 has already taken effect and the transfer has occurred. An election made by a member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from members during the period prescribed by the Tier 2 plan administrator under subsection (2). A member who does not make a written election or who does not file the election during the period specified in subsection (2) continues to be a member of Tier 1. Subject to section 701b, a member who makes and files a written election under this subsection elects to do all of the following:

- (a) Cease to be a member of Tier 1 effective 12 midnight June 30, 1998.
- (b) Become a qualified participant in Tier 2 effective 12:01 a.m., July 1, 1998.
- (c) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under Tier 1 effective 12 midnight on June 30, 1998. This subdivision does not affect a person's right to health benefits provided under this act pursuant to section 719.

(d) Waive the calculation of any actuarial present value based upon any salary increases that occur after December 31, 1998.

(2) The Tier 2 plan administrator shall establish a 60-day window for the members described in subsections (1) and (3) to make the election described in subsection (1) or (3). The Tier 2 plan administrator shall establish the 60-day window as soon as possible after confirmation from the office of retirement services that all necessary notifications and calculations of actuarial present values have been made, but not later than June 1, 2000.

(3) This subsection applies to a judge of the circuit court, probate court, or district court who was a vested member of Tier 1 on March 30, 1997 and who terminates the employment upon which that membership is based after March 30, 1997 but before the opening day of the 60-day window described in subsection (2). An individual described in this subsection may elect in writing to terminate membership in Tier 1 and elect to receive a distribution from Tier 1. An election made by a member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from a member during the 60-day window period. A member described in this subsection who does not make a written election or who does not file the election during the period specified in subsection (2) continues to be a member or vested former member of Tier 1. A member who makes and files a written election under this subsection to terminate membership in Tier 1 elects to do all of the following:

(a) Cease to be a member of Tier 1 effective 12 midnight on the day immediately preceding the date of the termination of employment.

(b) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under Tier 1 effective 12 midnight on the date described in subdivision (a). This subdivision does not affect an individual's right to health benefits provided under this act pursuant to section 509.

(c) Waive the calculation of any actuarial present value based upon any salary increases that occur after December 31, 1998.

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

(5) An election under this section is subject to the eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711.

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

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