

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

\*\*\*\*\* 38.2652a THIS SECTION IS REPEALED BY ACT 215 OF 1999 EFFECTIVE ON THE DATE THE SETTLEMENT AGREEMENT IN THE CASE OF MICHIGAN JUDGES ASSN V TREASURER OF THE STATE OF MICHIGAN, CASE NO.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 \*\*\*\*\*

**38.2652a Termination of membership in Tier 1 pursuant to MCL 38.2651a; definitions; transfer to account in Tier 2; calculation; disqualification for tax purposes.**

Sec. 702a.

(1) For a member who elects to terminate membership in Tier 1 under section 701a(1), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the qualified participant's account in Tier 2 on or before the expiration of 5 months after the window prescribed in section 701a(2) is closed. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The member's accumulated contributions, if any, from the reserve for member contributions.

(b) For a member who is vested under section 501(1) as of 12 midnight on the termination date, the excess, if any, of the actuarial present value of the member's accumulated benefit obligation, over the amount specified in subdivision (a), from the reserve for employer contributions. Except as provided in subsection (4), for the purposes of this subsection the present value of the member's accumulated benefit obligation is based upon the member's actual credited service and actual final salary as of 12 midnight on the termination date. The actuarial present value shall be computed as of 12 midnight on the termination date and shall be based on the following:

(i) Eight percent effective annual interest, compounded annually.

(ii) A 50% male and 50% female gender neutral blend of the mortality tables used to project retirant longevity in the most recent actuarial valuation report.

(iii) A benefit commencement age, based upon the member's credited service as of 12 midnight on the termination date. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight on the termination date:

(A) Age 60.

(B) Age 55, if the member's credited service equals or exceeds 18 years.

(C) The member's age, if the member's credited service equals or exceeds 25 years.

(c) Interest on any amounts determined in subdivisions (a) and (b), from the participation date to the date of the transfer, based upon 8% annual interest, compounded annually.

(2) As used in this section:

(a) "Participation date" means the date the individual becomes a qualified participant in Tier 2 as determined under section 701a(1)(b).

(b) "Termination date" means the date the individual ceases to be a member of Tier 1 as specified under section 701a(1)(a).

(3) For a member who elects to terminate membership in this retirement system under section 701a(3), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the former qualified participant's account in Tier 2 on or before the date prescribed in subsection (1) for transfers under that subsection. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The member's accumulated contributions, if any, from the reserve for member contributions as of 12 midnight on the day immediately preceding the date of the termination of employment.

(b) The excess, if any, of the actuarial present value of the member's accumulated benefit obligation, over the amount specified in subdivision (a), from the reserve for employer contributions. Except as provided in subsection (4), for the purposes of this subsection the present value of the member's accumulated benefit obligation is based upon the member's actual credited service and actual final salary as of 12 midnight on the day immediately preceding the date of the termination of employment. The actuarial present value shall be computed as of 12 midnight on that date and shall be based on the following:

(i) Eight percent effective annual interest, compounded annually.

(ii) A 50% male and 50% female gender neutral blend of the mortality tables used to project retirant longevity in the most recent annual actuarial valuation report.

(iii) A benefit commencement age, based upon the member's estimated credited service as of 12 midnight on the day immediately preceding the date of the termination of employment. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight on the day immediately

preceding the date of the termination of employment:

(A) Age 60.

(B) Age 55, if the member's credited service equals or exceeds 18 years.

(C) The age of the member if the member's credited service equals or exceeds 25 years.

(c) Interest on any amounts determined in subdivisions (a) and (b), from the day immediately following the date described in subdivision (a) to the date of the transfer, based upon 8% effective annual interest, compounded annually.

(4) For the purposes of subsections (1) and (3), the calculation of actual present value of the member's or vested former member's accumulated benefit obligation shall be based upon methods adopted by the department and the retirement system's actuary in consultation with the retirement board, and actual final salary shall be determined as provided in section 105(4), as of 12 midnight on the date the member ceases to be a member of Tier 1 under section 701a.

(5) 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