

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

ARTICLE VI

38.2601 False statement or violation as misdemeanor; penalty.

Sec. 601. A person who, with intent to deceive, makes a false statement in a report or record required under this retirement system, or who, with intent to deceive, violates this act or a rule promulgated under this act is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both.

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

38.2602 Change or error in records; adjustment.

Sec. 602. If a change or error in the records of the retirement system results in a retirant, retirement allowance beneficiary, or refund beneficiary receiving from the retirement system more or less than the retirant, retirement allowance beneficiary, or refund beneficiary would have been entitled to receive had the records been correct, the retirement system shall as far as practical correct the error, and may adjust the payment to provide an actuarial equivalent of the benefit to which the retirant, retirement allowance beneficiary, refund beneficiary, estate, or legal representative was correctly entitled. The retirement system shall not make an adjustment in benefits for an error totaling \$20.00 or less annually.

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

38.2603 Retirement board member or employee; prohibited acts.

Sec. 603. Except as provided in this act, a retirement board member or employee of the retirement board shall not have any interest, direct or indirect, in the gains or profits of any investments made of retirement system funds. Except as provided in section 202, a board member shall not, directly or indirectly, receive any pay for his or her services. A board member or person connected with the retirement board directly or indirectly, for himself or herself or as an agent or partner of others, shall not borrow any of the retirement system funds or deposits, or in any manner use retirement system funds except to make current and necessary payments that are authorized by the retirement board. A board member or employee of the retirement board shall not become an endorser of surety or become in any manner an obligor for money loaned by or borrowed from the retirement board.

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

38.2604 Intent of act; employer-financed benefits; limitations; use of assets; returning post-tax member contributions; beginning date of distributions; minimum distribution requirements; termination of retirement system; election to rollover to retirement plan; interest rate; consideration of compensation; qualified military service.

Sec. 604. (1) This section is enacted under section 401(a) of the internal revenue code, 26 USC 401, which imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code, 26 USC 401, and that the trust be an organization exempt from taxation under section 501 of the internal revenue code, 26 USC 501. The department shall administer the retirement system to fulfill the intent of this subsection.

(2) The retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to governmental plans and, beginning January 1, 2010, applicable provisions of the final regulations issued by the Internal Revenue Service on April 5, 2007. Employer-financed benefits provided by the retirement system under this act must not exceed the applicable limitations set forth in section 415 of the internal revenue code, 26 USC 415, as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code, 26 USC 415, to reflect cost-of-living increases, and the retirement system shall adjust the benefits, including benefits payable to retirants and retirement allowance beneficiaries, subject to the limitation each calendar year to conform with the adjusted limitation. For purposes of section 415(b) of the internal revenue code, 26 USC 415, the applicable limitation applies to aggregated benefits received from all qualified pension plans for which the office of retirement services coordinates administration of that limitation. If there is a conflict between this section and another section of this act, this section prevails.

(3) The assets of the retirement system must be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and must not be used for any other purpose. The assets must not be used for or diverted to a purpose other than for the exclusive benefit of the members, vested

former members, retirants, and retirement allowance beneficiaries before satisfaction of all retirement system liabilities.

(4) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member on retirement, under Internal Revenue Service regulations and approved Internal Revenue Service exclusion ratio tables.

(5) The required beginning date for retirement allowances and other distributions must not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires. The required minimum distribution requirements imposed by section 401(a)(9) of the internal revenue code, 26 USC 401, apply to this act and must be administered in accordance with a reasonable and good faith interpretation of the required minimum distribution requirements for all years in which the required minimum distribution requirements apply to this act.

(6) If the retirement system is terminated, the interest of the members, vested former members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code, 26 USC 411, and related Internal Revenue Service regulations applicable to governmental plans.

(7) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made after December 31, 1992.

(8) For purposes of determining actuarial equivalent retirement allowances under sections 506(1)(a) and (b) and 602, the actuarially assumed interest rate must be determined by the director of the department and the retirement board in consultation with the actuary using the mortality tables adopted by the department and the retirement board.

(9) Notwithstanding any other provision of this act, the compensation of a member of the retirement system must be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, 26 USC 401, as adjusted by the commissioner of internal revenue. This subsection applies to an individual who first becomes a member of the retirement system after September 30, 1996.

(10) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code, 26 USC 414. This subsection applies to all qualified military service after December 11, 1994. Beginning on January 1, 2007, in accordance with section 401(a)(37) of the internal revenue code, 26 USC 401, if a member dies while performing qualified military service, for purposes of determining any death benefits payable under this act, the member is treated as having resumed and then terminated employment on account of death.

History: 1992, Act 234, Eff. Mar. 31, 1993;—Am. 1995, Act 193, Imd. Eff. Nov. 7, 1995;—Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002;—Am. 2008, Act 514, Imd. Eff. Jan. 13, 2009;—Am. 2018, Act 335, Imd. Eff. July 2, 2018.

38.2605 Effect of proceedings, rights, and liabilities existing under former judges retirement system or former probate judges retirement system.

Sec. 605. All proceedings pending and all rights and liabilities existing, acquired, or incurred under the former judges retirement system or former probate judges retirement system at the time this act takes effect are saved. Those proceedings shall be consummated pursuant to the law in effect when the proceedings were commenced. Those rights and liabilities shall be preserved pursuant to the law in effect on the day immediately preceding the effective date of this act. To the extent that either the kinds of benefits available under the former judges retirement system or former probate judges retirement system as in effect on the day immediately before the effective date of this act or the manner of calculating those benefits under the former judges retirement system or former probate judges retirement system results in a greater benefit of any kind than would otherwise be available under this act or include a benefit not otherwise available under this act, the determinations of those kinds of benefits available and the manner of calculating those benefits shall be made pursuant to the former judges retirement system or former probate judges retirement system for those members who participated in the retirement system as set forth in the former judges retirement system or former probate judges retirement system before the effective date of this act.

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

38.2606 Transfer of assets, rights, and obligations under former retirement systems to judges retirement system.

Sec. 606. All assets, rights, and obligations under the former judges retirement system and former probate judges retirement system are transferred to this retirement system. These assets, rights, and obligations shall continue to be accounted for in the various reserves created under this retirement system and all rights and liabilities existing under the former judges retirement system and former probate judges retirement system are preserved.

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

38.2607 Repeal of MCL 38.801 to 38.831, 38.901 to 38.933, and 600.2530a.

Sec. 607. (1) Act No. 198 of the Public Acts of 1951, being sections 38.801 to 38.831 of the Michigan Compiled Laws and Act No. 165 of the Public Acts of 1954, being sections 38.901 to 38.933 of the Michigan Compiled Laws, are repealed.

(2) Section 2530a of Act No. 236 of the Public Acts of 1961, being section 600.2530a of the Michigan Compiled Laws, is repealed.

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

38.2608 Conditional effective date.

Sec. 608. This act shall not take effect unless House Bill No. 6097 of the 86th Legislature is enacted into law.

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