

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

38.2506 Election of straight life retirement allowance or optional retirement allowance.

Sec. 506.

(1) Upon application for retirement under this act, a member or vested former member who meets the requirements of section 501 may elect to receive a retirement allowance as a straight life retirement allowance or as an optional retirement allowance under 1 of the payment options provided in this section. The member or vested former member shall file a written election with the retirement system before the effective date of the retirement allowance. If a member or vested former member fails to file a written election under this subsection, the member or vested former member is considered to have elected the straight life retirement allowance under section 503. The member or vested former member shall designate in the written election a retirement allowance beneficiary that shall be either the spouse, brother, sister, parent, or child, including an adopted child, of the member or vested former member. The amount of retirement allowance under options A and B are the actuarial equivalent of the amount of the straight life retirement allowance calculated under section 503. The options are as follows:

(a) Option A. The retirement system shall pay an optional retirement allowance to the retirant for life with the provision that upon the retirant's death, payment of the optional retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member or vested former member designated in writing and filed with the retirement system at the time of election of the option.

(b) Option B. The retirement system shall pay an optional retirement allowance for life to the retirant with the provision that upon the retirant's death, payment of 1/2 of the optional retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member or vested former member designated in writing and filed with the retirement system at the time of election of the option.

(2) Except as otherwise provided in this section, a retirant shall not change the election of a payment option or the designation of a retirement allowance beneficiary under subsection (1) after the retirement allowance effective date. If a retirant who elected a payment option under subsection (1)(a) or (b) dies, the retirement system shall pay the optional retirement allowance to the option A beneficiary or option B beneficiary effective the first day of the month following the retirant's death. If the option A or option B beneficiary designated under this section is the surviving spouse of the deceased retirant, the surviving spouse may elect to receive a retirement allowance as provided in section 508 in lieu of the survivor portion of the optional form of payment elected by the retirant under this section.

(3) If the option A beneficiary or option B beneficiary predeceases the retirant, the retirant's benefit reverts to a straight life retirement allowance and the retirement system shall begin payment of the straight life retirement allowance to the retirant effective the first day of the month following the option A or option B beneficiary's death.

(4) The retirement system shall provide each member or vested former member who applies for retirement a written explanation of the optional forms of payment under this section before the member or vested former member retires.

(5) If a retirant receiving an optional retirement allowance under this section is divorced from the spouse who had been designated the option A or option B beneficiary, the retirement system shall consider the election of the optional form of payment option under this section void if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act and dated after June 27, 1991 provides that the election of the optional form of payment option under this section is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of an optional form of payment under this section is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight life retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement allowance shall revert to a straight life retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(6) A member who continues active employment on or after the date he or she acquires 8 years of credited service or who becomes eligible for a retirement allowance as a vested former member under section 501, whichever occurs first, may file a written election with the retirement system to elect option A as provided in subsection (1)(a). The member or vested former member shall nominate a retirement allowance beneficiary in the

written election in the same manner as if the member or vested former member were then retiring from service. If the beneficiary's death or divorce from the member or vested former member occurs before the effective date of the member's or vested former member's retirement, the member's or vested former member's election of option A and nomination of retirement allowance beneficiary is automatically revoked and the member or vested former member may again elect option A and nominate a retirement allowance beneficiary at any time before the effective date of retirement. If a member or vested former member who has made an election and nominated a retirement allowance beneficiary as provided in this subsection dies before the effective date of his or her retirement, then the retirement allowance beneficiary shall receive the retirement allowance that he or she would have been entitled to receive under option A if the member or vested former member had been retired on the date of the member's or vested former member's death. Except as otherwise provided by subsection (7), if a member or vested former member who has made an election under this subsection subsequently retires under this act, his or her election of option A takes effect at the time of retirement. The member or vested former member, before the effective date of retirement, but not after the effective date of retirement, may revoke his or her previous election of option A and elect to receive his or her retirement allowance as a straight life retirement allowance or under option B as provided for in subsection (1). This subsection does not apply on and after 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 or effect, is rendered null and void, or is otherwise terminated.

(7) If a member, vested former member, retiring member, or retiring vested former member is married on the effective date of the retirement allowance, an election under this section, other than an election of a payment option under subsection (1) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse. However, this requirement may be waived by the retirement board if the signature of a spouse cannot be obtained because of extenuating circumstances. As used in this subsection, "spouse" means the person to whom the member, vested former member, retiring member, or retiring vested former member is married on the effective date of the retirement allowance.

History: 1992, Act 234, Eff. Mar. 31, 1993 ;-- Am. 1999, Act 215, Eff. May 30, 2000 ;-- Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002