

**Sec. 12. Termination of Participation by Participating Court; Effect of Termination; Disposition of Assets and Liabilities; Closed Divisions; Closed Division Funding; Adoption of Non-MERS Defined Contribution Plans; Restrictions.**

(1) Termination of Participation.

- (a) The termination of a court's participation in the Retirement System results in the cessation of benefit accruals by the court's employees in the Defined Benefit Plan, Defined Contribution Plan, and Hybrid Plan. A termination of participation occurs under any of the following circumstances:
  - (i) The participating court elects to terminate participation in the Retirement System by an affirmative vote by the qualified electors of the municipalities that are required by law to fund the court. The chief judge of the participating court shall certify to the Retirement System, in the manner and form prescribed by the Retirement Board, the determination of the court to terminate participation. The certification shall be made within 10 days after the canvass of votes of the qualified electors. The effective date of termination of participation shall be the first day of the court's fiscal year that is at least 6 months after the date of the vote by the qualified electors. Termination of participation shall preclude a court from again becoming a participating court during the 5-year period immediately following the effective date of the termination of participation.
  - (ii) A participating court which covers all of its members, vested former members, retirees, beneficiaries, and participants under the Defined Contribution Plan directs by administrative order of the court's chief judge that is concurred in by a two-thirds vote of the governing bodies of the municipalities that are required by law to fund the court to terminate participation in the Retirement System and adopt a non-MERS defined contribution plan qualified under 401(a) of the IRC for participants who are currently enrolled in the Defined Contribution Plan. The governing body of each municipality that is required to concur shall introduce a resolution to that effect at a regularly scheduled meeting and shall not vote on the resolution before its next regularly scheduled meeting. Amounts shall be transferred from the Defined Contribution Plan to the successor defined contribution plan. The transfer amount for a participant currently enrolled in the Defined Contribution Plan shall be the fair market value of the participant's vested and non-vested accumulated balance as of the date of transfer. Transfer of membership and funds shall be implemented as expeditiously as possible pursuant to a joint transition agreement between the chief

judge of the participating court, the governing body of the municipalities which fund the court, and the Retirement System.

- (b) A court that terminates participation in the Retirement System under subsection 1(a)(i) remains responsible under Article 9, section 24 of the Michigan Constitution for payment of accrued pension benefits. As of the date of termination, the court's members and participants acquire full vesting of accrued retirement allowances and defined contribution accumulated balances. All of the court's members become vested former members.
  - (i) Unless otherwise authorized by the Retirement Board, the participating court shall leave with MERS all or a portion of its actuarial accrued liabilities for accrued retirement allowance payments for retirees, beneficiaries, and vested former members in the Defined Benefit Plan and Hybrid Plan Defined Benefit Component, together with assets in the amount required by the Retirement Board pursuant to the Restated Policy for Closed Municipalities. The Retirement System shall adjust the balance in the reserve for employer contributions to a market value basis for the purpose of determining the amount of an insufficiency or the amount of an overage under this subsection. The adjusted balance in the reserve for employer contributions shall be periodically compared to the actuarial accrued liabilities, including a margin for experience fluctuation, for accrued pensions payable and to be paid persons on account of the court's participation in the Retirement System. If at the time of a comparison the adjusted balance is insufficient to fully cover the actuarial accrued liabilities, the insufficiency shall be an obligation of the court and shall be liquidated as determined by the Retirement System. If at the time of a comparison the adjusted balance is more than sufficient to fully cover the actuarial accrued liabilities, the overage shall be returned to the court in a single sum or, at the request of the court, transferred to another retirement plan covering the employees of the court.
  - (ii) For participants in the Defined Contribution Plan and Hybrid Plan Defined Contribution Component, the vested accumulated balance shall be distributed to each participant as provided in Article IV and Article V.
  - (iii) The conditions and requirements of the Retirement System pertaining to termination of participation and the disposition of assets and liabilities shall be specified in a joint withdrawal agreement between the chief judge of the participating court, the

governing body of the municipalities which fund the court, and the Retirement System.

(2) Closed Divisions.

- (a) A participating court may close one or more employee classifications (“divisions”) in the Defined Benefit Plan without terminating participation in the Retirement System. A closed division arises when there are no longer any members in a division or when the participating municipality notifies MERS that there will be no new employees in a division. Current members that remain in a closed division continue to accrue future service benefits.
- (b) A participating court that has closed a defined benefit division and adopted the Defined Contribution Plan, or which is eligible to close a defined benefit division to adopt the Defined Contribution Plan for new hires under section 48(1) and current members under section 64, may elect by administrative order of the court’s chief judge and concurred in by a two-thirds vote of the governing bodies of the municipalities that are required by law to fund the court to adopt a non-MERS defined contribution plan qualified under 401(a) of the IRC. The governing body of each municipality that is required to concur shall introduce the resolution at a regularly scheduled meeting and shall not vote on the resolution before its next regularly scheduled meeting. Amounts shall be transferred from the Defined Contribution Plan to the successor defined contribution plan. The transfer amount for a participant currently enrolled in the Defined Contribution Plan shall be the fair market value of the participant’s vested and non-vested accumulated balance as of the date of transfer. The transfer amount for a member currently enrolled in the Defined Benefit Plan who is eligible to be enrolled in the Defined Contribution Plan and elects coverage under the successor defined contribution plan shall be determined in a manner consistent with section 64(4). Transfer of membership and funds shall be implemented as expeditiously as possible pursuant to a joint transition agreement between the chief judge of the participating court, the governing body of the municipalities which fund the court, and the Retirement System. This subsection shall not apply to conversions under section 64(5).
- (c) To effectuate funding consistent with Article 9, section 24 of the Michigan Constitution, participating courts with closed divisions shall finance the unfunded actuarial accrued liability of such divisions pursuant to the Retirement Board’s Amended Amortization Policy for Closed Divisions within Open Municipalities.