

### Sec. 2. Definitions.

- (1) “Accumulated balance” means the total balance in a participant’s individual account under the Defined Contribution Plan or the Defined Contribution component of the Hybrid Plan.
- (2) “Accumulated contributions” means the sum of all amounts credited to a member’s individual account in the reserve for employee contributions.
- (3) “Beneficiary” means an individual who is being paid or who has entitlement to the future payment of a retirement benefit or a return of contributions on account of a reason other than the individual’s membership in the Retirement System.
- (4) “Board” means the Retirement Board.
- (5) “Certification date” means August 15, 1996. [MCL 38.1502a(1)].
- (6) “Chief judge” means the chief judge of a judicial circuit court, a judicial district court, or a judicial probate court as provided in the Revised Judicature Act of 1961, 1961 PA 236, MCL 600.101 to 600.9948. [MCL 38.1502a(2)].
- (7) “Defined Contribution,” “DC,” or “DC Program” means the Defined Contribution Plan established under Article IV, or the Defined Contribution component of the Hybrid Plan established under Article V.
- (8) “Direct rollover” means a payment by the Retirement System to the eligible retirement plan specified by the distributee.
- (9) “Distributee” includes a member or vested former member. Distributee also includes the member’s or vested former member’s surviving spouse or the member’s or vested former member’s spouse or former spouse under a domestic relations order, with regard to the interest of the spouse or former spouse. Effective July 15, 2009, a distributee includes a nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the IRC. A nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an “inherited” individual retirement account or annuity.
- (10) “Eligible retirement plan.” Beginning January 1, 2002, except as otherwise provided in this subsection, “eligible retirement plan” means the following types of plans established under the listed sections of the IRC:
  - (a) A qualified trust described in section 401(a);
  - (b) An annuity plan described in section 403(a);
  - (c) A tax-sheltered annuity described in section 403(b);
  - (d) An individual retirement account described in section 408(a);

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- (e) An individual retirement annuity described in section 408(b);
  - (f) A Roth IRA individual retirement account described in section 408A; and
  - (g) A deferred compensation plan under section 457(b) that is maintained by a state, or an agency or instrumentality of a state, a political subdivision of a state, or an agency or instrumentality of a political subdivision of a state, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse on or before December 31, 2001, an eligible retirement plan means an individual retirement account or an individual retirement annuity.
- (11) "Eligible rollover distribution." Beginning January 1, 2002, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:
- (a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.
  - (b) A distribution for a specified period of 10 years or more.
  - (c) A distribution to the extent that the distribution is required under section 401(a)(9) of the IRC.
  - (d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities; provided, that any portion of a distribution that is not included in federal gross income may be an eligible rollover distribution for purposes of a rollover to: (1)(i) an eligible retirement plan listed in subsection (10)(a) or (b) provided that the plan is a defined contribution plan that will separately account for the distribution, including the taxable and non-taxable portions of the distribution, and that the rollover is a direct trustee-to-trustee transfer, and (ii) beginning January 1, 2007, an eligible retirement plan listed in subsection (10)(a) that is a defined benefit plan or (10)(c) provided that the plan will separately account for the distribution, including the taxable and non-taxable portions of the distribution, and that the rollover is a direct trustee-to-trustee transfer, or; (2) an eligible retirement plan listed in subsection (10)(d) or (e), or; (iii) beginning January 1, 2008, an eligible retirement plan listed in subsection (10)(f).
- (12) "Governing body" means the representative legislative body of a municipality, or the administrative board or commission of a public corporation or instrumentality that does not have a representative legislative body. [MCL 38.1502a(3)].
- (13) "Hybrid" or "Hybrid Program" means the Hybrid Plan established under Article V.
- (14) "Internal Revenue Code" or "IRC" means the United States Internal Revenue Code of 1986.

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- (15) "Judicial circuit court" means a judicial circuit of the circuit court as provided in section 11 of article VI of the state constitution of 1963. [MCL 38.1502a(4)].
- (16) "Judicial district court" means a judicial district of the district court as provided in section 8101 of the Revised Judicature Act of 1961, 1961 PA 236, MCL 600.8101. [MCL 38.1502a(5)].
- (17) "Judicial employee" means an individual who is paid compensation for personal service rendered for a participating court. Judicial employee does not include anyone who is a municipal employee under subsection (22) or anyone who is specifically excluded as a municipal employee under subsection (22).
- (18) "Judicial probate court" means a county probate court or probate court district as provided in section 15 of article VI of the state constitution of 1963. [MCL 38.1502a(6)].
- (19) "Limitation year" means, for purposes of section 415 of the IRC, the calendar year.
- (20) "Member" means an individual [municipal employee or judicial employee] who is included in the membership of the Retirement System as determined by the Retirement Board. [MCL 38.1502b(1)].
- (21) "Membership service" means personal service rendered a participating municipality or court while a member of the Retirement System.
- (22) "Municipal employee" means an individual who is paid compensation for personal services rendered for a participating municipality. Payment of compensation by a hospital, board, commission, public corporation, or instrumentality created by a municipality is considered payment by the municipality. Municipal employee does not include any of the following:
- (a) The mayor, village president, or a member of the governing body of a participating municipality, unless the individual files a written application for membership with the Retirement System. By written election in the form prescribed by MERS, and signed by the member's spouse, a member whose membership exists by virtue of having filed an application for membership under this subsection may irrevocably elect to be excluded from membership (and any membership rights or benefits arising from service under this subsection) under the following conditions:
    - (i) The election is made while the member occupies a position under this subsection (22)(a).
    - (ii) For the period in which the member has occupied a position under this subsection (22)(a), the member shall be paid the member's accumulated contributions, if any, and all credited service for the period shall be forfeited in all cases.
    - (iii) The individual shall not again become a member of the Retirement System on account of occupying a position under this subsection (3)(a) for the same municipality.

- (iv) The individual's forfeited credited service and any service rendered the participating municipality during any time the individual was excluded from membership shall never be reinstated or credited to the individual under sections 16 or 18, or for any other purpose under the Plan Document.
  - (b) An individual who is employed on a basis that exempts the participating municipality from the withholding provisions of the IRC.
  - (c) An individual, except a county elected official, who is wholly paid on a fee basis.
  - (d) An individual who was an active member as of January 1, 1983 of the State of Michigan Probate Judges Retirement System created by the former Probate Judges Retirement Act, former 1954 PA 165, being MCL 38.901 to 38.933 and who continued in service as a probate judge under the successor act, the Judges' Retirement Act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.
  - (e) An individual who is, on the effective date of the municipality's or court's participation under this Plan or the predecessor Act, a member of another retirement system that is sponsored by the participating municipality or court if that individual remains as a member of the other retirement system.
- (23) "Municipality" means 1 or more of the following [MCL 38.1502b(2)]:
- (a) A county, county road commission, city, village, or township.
  - (b) A public corporation or instrumentality established by 1 or more counties, cities, villages, or townships.
  - (c) A public corporation or instrumentality charged by law with the performance of a governmental function and whose jurisdiction is coextensive with 1 or more counties, cities, villages, or townships.
  - (d) A political subdivision located in this state or located in this and another adjacent state of the United States including, but not limited to, the entities named in subdivision (a), (b), or (c), or any combination of these units.
  - (e) A political subdivision located in this state and a metropolitan government borough, or other political subdivision of the province of Ontario, an agency of the United States, or a similar entity of adjacent states of the United States and the province of Ontario.
  - (f) A state university, community college, or junior college whose employees are not public school employees who are members under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408.
  - (g) Any municipal corporation as defined in section 1 of 1951 PA 35, MCL 124.1, or other governmental entity that is eligible to join the Retirement System and participate in any program under this Act, as determined by the Retirement Board.

- (24) “Participant” means an employee member or former member with a participant account balance who participates in the Defined Contribution Plan under Article IV, or the Defined Contribution Component of the Hybrid Plan under Article V.
- (25) “Participating court” means a judicial circuit court, a judicial district court, or a judicial probate court that has elected to be governed by the provisions of this Plan Document, 1984 PA 427, or former Act No. 135 of the Public Acts of 1945. [MCL 38.1502c(1)].
- (26) “Participating municipality” means a municipality that has elected to be governed by the provisions of this Plan Document, 1984 PA 427, or former Act No. 135 of the Public Acts of 1945. Two or more municipalities may enter into an agreement with each other and the Retirement System to participate as a combined unit. [MCL 38.1502c(2)].
- (27) “Prior service” means a member’s accrued service with a municipality or a court (circuit, district, or probate) prior to the date the municipality or court became a participating municipality or court. The participating municipality or court shall certify to the Retirement System, in writing, the amount of prior service to be credited each member in its employ. The participating municipality or court may limit the period of certified prior service to either a percentage of the member’s total period of prior service or a stated number of years. Certification of prior service shall be made prior to the retirement of a member, in the form and at the time prescribed by the Retirement Board. Prior service credit shall not be recognized for the purpose of calculating a retirement allowance under this Plan unless all of the following requirements are met:
- (a) The participating municipality or court transfers to the Retirement System assets from the preceding qualified plan and/or other source equal to at least fifty percent (50%) of prior service accrued liabilities (as determined under MERS assumptions). Should assets actually transferred be less than fifty percent (50%) of such liabilities, then all prior service recognized shall be in strict proportion to the assets transferred.
  - (b) Unfunded actuarial accrued liabilities, if any, arising from prior service shall be funded over a 30-year amortization schedule, for initial actuarial valuations requested before January 1, 2007. Unfunded actuarial accrued liabilities, if any, arising from prior service shall be funded over a 25-year amortization schedule for initial actuarial valuations requested on or after January 1, 2007.
  - (c) In the event any alteration of this subsection through collective bargaining, MERS prior service shall not be recognized, other than in accordance with this subsection.
- (28) “Public corporation” means the Retirement System on and after the certification date, which corporation is an instrumentality of the participating municipalities and participating courts. [MCL 38.1502c(3)].
- (29) “Retiree” means an individual who is being paid a retirement allowance on account of the individual’s membership in the Retirement System.

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- (30) "Retirement allowance" means an annual amount payable in monthly installments by the Retirement System, whether payable for a temporary period or throughout the future life of a retiree or beneficiary.
- (31) "Retirement benefit" means a retirement allowance, refund of accumulated contributions, or distribution of accumulated balance under the Defined Benefit Plan, Defined Contribution Plan, or Hybrid Plan. The term does not include any post-retirement or other ancillary benefit or payment, which may become available under the Plan Document or the Retirement System.
- (32) "Retirement Board" means the retirement board provided for in section 71 to administer the Retirement System. [MCL 38.1502c(4)].
- (33) "Retirement System" or "system" means the municipal employees retirement system established by former Act No. 135 of the Public Acts of 1945, and continued and restated by 1984 PA 427, and this Plan Document on and after the certification date. [MCL 38.1502c(5)].
- (34) "Vested former member" or "deferred vested member" means a person who meets the requirements of section 21.