

Sec. 6. Membership.

- (1) Each municipal employee of a participating municipality and each judicial employee of a participating court, who is employed in a position 3 or more months (consecutive or nonconsecutive) in a calendar year requiring at least 10 days or a specified number of hours of work in a calendar month, shall be a member of the Retirement System unless excluded from membership in accordance with subsection (2) or (3). A day of work or the specified number of hours of work in a calendar month shall be defined by the participating municipality or court in the Adoption Agreement, and shall be uniformly applicable to all members employed by the participating municipality or court who are covered by the same benefit program coverage classification. If the participating municipality or court does not otherwise define membership under this section, a day of work shall be the normal work day applicable to fulltime employees in the same benefit program classification.
- (2) A participating municipality or court may exclude temporary municipal employees or judicial employees from membership in the Retirement System. The participating municipality or court shall notify, in writing, each temporary municipal or judicial employee excluded from membership. A municipal or judicial employee shall not be designated a temporary municipal or judicial employee if employed in a position that exceeds 12 consecutive months of work. Exclusion of temporary municipal or judicial employees from membership shall be specified by the participating municipality or court in the Adoption Agreement. A temporary position ceases to qualify under this subsection if the employee is employed in a position longer than the defined temporary period, or the temporary employee is rehired into the same temporary position within 90 days of termination of the prior temporary period. In the event a temporary position ceases to qualify under this subsection, then the employee shall cease to be excluded from MERS membership, and shall be entitled to the crediting of service in the position from the date of hire for each month of service that meets the requirements of subsection (1).
- (3) A participating municipality or court may exclude probationary municipal employees from membership in the Retirement System. "Probationary municipal employee" means an employee who has been employed for less than the standard probationary period at a participating municipality or court. The participating municipality or court may elect in the Adoption Agreement to have a standard probationary period of up to 12 full months for all members employed by the participating municipality or court who are covered by the same benefit coverage classification. The participating municipality or court shall notify, in writing, each probationary municipal employee excluded from membership upon hiring the employee, and shall provide the date when the probationary period ends and the employee is eligible for membership. At the cessation of the probationary period, the probationary municipal employee shall cease to be excluded from MERS membership and shall become a member of MERS. The

probationary municipal employee shall not be entitled to the crediting of service in the position from the date of hire to the date of membership.

- (4) Membership shall:
- (a) Include a circuit, district or probate judge first elected or appointed before March 31, 1997, who was a MERS member (or non-vested, deferred vested member or retiree) on that date, and who had elected with the Judges Retirement System to not participate in Tier 2 for the local (indirect, non-State) paid compensation reported to MERS by the member's participating municipality or court.
 - (b) Exclude a circuit, district or probate judge first elected or appointed on or after March 31, 1997, who participates exclusively in Tier 2 of the Judges Retirement Act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and such judge shall not be a member of MERS for such judicial service. Where a judge has elected to not participate (or discontinue participation) in Tier 2 pursuant to section 712 of the Judges Retirement Act, MCL 38.2662, then "compensation" reportable to MERS:
 - (i) For a circuit or district judge shall include indirect salary only paid to the judge by the participating municipality or court; or
 - (ii) For a probate judge, shall include direct and indirect "salary" paid to the judge by the MERS-participating County as provided in the Revised Judicature Act, 1961 PA 236, section 821; MCL 600.821.
- (5) A municipal or judicial employee shall cease to be a member upon termination of employment by a participating municipality or court, or upon ceasing to be employed in a position regularly requiring at least 10 days or a specified number of hours of work in a calendar month, as provided in subsection (1), or upon being designated a temporary municipal or judicial employee, except as provided in subsection (2).
- (a) A member who has been laid off by a participating municipality or court and whose layoff status continues for a period of at least 30 days may make written request to the Retirement System for a return of the member's accumulated contributions. Payment of the accumulated contributions shall constitute termination of membership in the Retirement System.
 - (b) A member who is in receipt of workers' compensation weekly benefits on account of an employment-related injury shall continue to be a member and receive credited service until the earliest of termination of employment, retirement or death.

- (6) A member who is transferred to the employ of the state, another municipality, or another circuit, district, or probate court (or similar court, comprised of any combination of the courts mentioned, such as a family court, or trial court) by reason of a function of the member's participating municipality or court being transferred to the state, the other municipality, or the other circuit, district, probate, or similar court shall remain a member of this Retirement System, notwithstanding subsection (4), subject to the following conditions:
- (a) Service rendered the state, the other municipality, or the other circuit, district, probate, or similar court subsequent to the transfer and standing to the member's credit in a retirement system of the state, the other municipality, or the other circuit, district, probate or similar court may be combined with the member's credited service in this Retirement System. The combined credited service may be used only to meet the retirement or survivor benefit credited service requirements of this Retirement System.
 - (b) The amount of a retirement allowance that may become payable by this Retirement System shall be computed on the basis of the member's credited service and final average compensation, and the benefit program applicable to the member, at the time of the member's transfer of employment.
 - (c) The member may not retire prior to termination of all employment with the state, the other municipality, or the other circuit, district, probate, or similar court.