

## CHAPTER 490

### JUDGES RETIREMENT

<p>490.121 DEFINITIONS.</p> <p>490.1211 UNIFORMED SERVICE.</p> <p>490.122 ADMINISTRATION OF JUDGES' RETIREMENT.</p> <p>490.1221 JUDGES PLAN PROGRAMS.</p> <p>490.1222 APPLICATION OF SERVICE CREDIT LIMIT.</p> <p>490.123 JUDGES' RETIREMENT FUND.</p>	<p>490.124 MATURITY OF BENEFITS; RETIREMENT AND SURVIVORS' ANNUITIES.</p> <p>490.125 MANDATORY RETIREMENT.</p> <p>490.126 PROCEDURES.</p> <p>490.133 RETIREMENT; TRANSITION; TRANSFER TO COURT OF APPEALS.</p>
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**490.01** [Repealed, 1949 c 640 s 5 subd 2]

**490.02** [Repealed, 1949 c 640 s 5 subd 2]

**490.021** [Repealed, 2006 c 271 art 11 s 49]

**490.025** Subdivision 1. [Repealed, 2006 c 271 art 11 s 49]

Subd. 2. [Repealed, 2006 c 271 art 11 s 49]

Subd. 3. [Repealed, 2006 c 271 art 11 s 49]

Subd. 4. [Repealed, 2006 c 271 art 11 s 49]

Subd. 5. [Repealed, 2006 c 271 art 11 s 49]

Subd. 6. [Repealed, 2006 c 271 art 11 s 49]

Subd. 7. [Repealed, 1967 c 700 s 10; 2006 c 271 art 11 s 49]

Subd. 8. [Repealed, 1980 c 614 s 191; 2006 c 271 art 11 s 49]

Subd. 9. [Repealed, 1967 c 700 s 10; 2006 c 271 art 11 s 49]

**490.026** [Repealed, 1959 c 688 s 6]

**490.027** [Repealed, 1949 c 640 s 5; 1949 c 645 s 3]

**490.030** [Repealed, 1959 c 688 s 6]

**490.031** [Repealed, 1959 c 688 s 6]

**490.04** [Repealed, 1978 c 475 s 2]

**490.05** [Repealed, 1978 c 475 s 2]

**490.06** [Repealed, 1978 c 475 s 2]

**490.07** [Repealed, 1978 c 475 s 2]

**490.08** [Repealed, 1978 c 475 s 2]

**490.09** [Repealed, 1978 c 475 s 2]

**490.10** [Repealed, 1949 c 640 s 5 subd 1]

**490.101** [Repealed, 2006 c 271 art 11 s 49]

**490.102** Subdivision 1. [Repealed, 2006 c 271 art 11 s 49]

Subd. 2. [Repealed, 2006 c 271 art 11 s 49]

Subd. 3. [Repealed, 2006 c 271 art 11 s 49]

Subd. 3a. [Repealed, 2006 c 271 art 11 s 49]

Subd. 4. [Repealed, 2006 c 271 art 11 s 49]

Subd. 5. [Repealed, 1977 c 35 s 21; 2006 c 271 art 11 s 49]

Subd. 6. [Repealed, 2006 c 271 art 11 s 49]

Subd. 7. [Repealed, 2006 c 271 art 11 s 49]

Subd. 8. [Repealed, 2006 c 271 art 11 s 49]

**490.103** [Repealed, 2006 c 271 art 11 s 49]

**490.104** [Repealed, 1981 c 224 s 276]

**490.105** [Repealed, 2006 c 271 art 11 s 49]

**490.106** [Repealed, 2006 c 271 art 11 s 49]

**490.107** [Repealed, 2006 c 271 art 11 s 49]

**490.108** [Repealed, 2006 c 271 art 11 s 49]

**490.109** [Repealed, 2006 c 271 art 11 s 49]

**490.1091** [Repealed, 2006 c 271 art 11 s 49]

**490.11** [Repealed, 2004 c 267 art 8 s 41]

**490.12** Subdivision 1. [Repealed, 2006 c 271 art 11 s 49]

Subd. 2. [Repealed, 2006 c 271 art 11 s 49]

Subd. 3. [Repealed, 2006 c 271 art 11 s 49]

Subd. 4. [Repealed, 2006 c 271 art 11 s 49]

Subd. 5. [Repealed, 2006 c 271 art 11 s 49]

Subd. 6. [Repealed, 2006 c 271 art 11 s 49]

Subd. 7. [Repealed, 1979 c 296 s 7; 2006 c 271 art 11 s 49]

Subd. 8. [Repealed, 1979 c 296 s 7; 2006 c 271 art 11 s 49]

Subd. 9. [Repealed, 2006 c 271 art 11 s 49]

**490.121 DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of this chapter, unless the context clearly indicates otherwise, each of the terms defined in this section has the meaning given it.

Subd. 2. [Repealed, 2006 c 271 art 11 s 49]

Subd. 2a. **Actuarial equivalent.** (a) "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date with each actuarial present value based on the appropriate mortality table adopted by the board of directors of the Minnesota State Retirement System based on the experience of the fund as recommended by the actuary retained under section 356.214 and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

(b) For purposes of computing a joint and survivor annuity, the postretirement interest rate assumption specified in section 356.461 must be used, rather than the postretirement interest rate specified in section 356.215, subdivision 8.

Subd. 3. [Repealed, 2006 c 271 art 11 s 49]

Subd. 4. **Allowable service.** (a) "Allowable service" means any calendar month, subject to the service credit limit in subdivision 22, served as a judge at any time, during which the judge received compensation for that service from the state, municipality, or county, whichever applies, and for which the judge made any required member contribution. It also includes any month served as a referee in probate for all referees in probate who were in office before January 1, 1974.

(b) "Allowable service" also means a period of authorized leave of absence for which the judge has made a payment in lieu of contributions, not in an amount in excess of the service credit limit under subdivision 22. To obtain the service credit, the judge shall pay an amount equal to the normal cost of the judges retirement plan on the date of return from the leave of absence, as determined in the most recent actuarial report for the plan filed with the Legislative Commission on Pensions and Retirement, multiplied by the judge's average monthly salary rate during the authorized leave of absence and multiplied by the number of months of the authorized leave of absence, plus annual compound interest at the rate of 8.5 percent until June 30, 2015, and eight percent thereafter from the date of the termination of the leave to the date on which payment is made. The payment must be made within one year of the date on which the authorized leave of absence terminated. Service credit for an authorized leave of absence is in addition to a uniformed service leave under section 490.1211.

(c) "Allowable service" does not mean service as a retired judge.

Subd. 5. [Repealed, 2006 c 271 art 11 s 49]

Subd. 6. **Annuity.** "Annuity" means the payments that are made each year to an annuitant from the judges' retirement fund under this chapter.

Subd. 7. **Annuitant.** "Annuitant" means a former judge, a surviving spouse, or a dependent child who is entitled to and is receiving an annuity under this chapter.

Subd. 7a. **Approved actuary.** "Approved actuary" means an actuary as defined in section 356.215, subdivision 1, paragraph (c).

Subd. 7b. **Court.** "Court" means any court of this state that is established by the Minnesota Constitution.

Subd. 7c. **Dependent surviving child.** "Dependent surviving child" means any natural or adopted child of a deceased judge who has not reached the age of 18 years, or having reached the age of 18, is under age 22 and who is a full-time student throughout the normal school year, is unmarried, and is actually dependent for more than one-half of the child's support upon the judge for a period of at least 90 days before the judge's death. It also includes any natural child of the judge who was born after the death of the judge.

Subd. 8. [Repealed, 2006 c 271 art 11 s 49]

Subd. 9. [Repealed, 2006 c 271 art 11 s 49]

Subd. 10. [Repealed, 2006 c 271 art 11 s 49]

Subd. 11. [Repealed, 2006 c 271 art 11 s 49]

Subd. 12. [Repealed, 2006 c 271 art 11 s 49]

Subd. 13. **Disability.** "Disability" means the permanent inability of a judge to continue to perform the functions of judge by reason of a physical or mental impairment resulting from a sickness or an injury.

Subd. 14. **Disability retirement date.** "Disability retirement date" means the last day of the first month after the date on which the governor determines, upon receipt of the voluntary application by the judge or otherwise, that a judge suffers from a disability.

Subd. 15. **Disability retirement annuity.** "Disability retirement annuity" means an annuity to which a judge is entitled under section 490.124, subdivisions 1 and 4, after the retirement of the judge because of a disability.

Subd. 15a. **Early retirement date.** "Early retirement date" means any date after a judge attains the age of 60 but before the judge reaches the normal retirement date.

Subd. 15b. **Early retirement annuity.** "Early retirement annuity" means an annuity to which a judge is entitled under section 490.124, subdivisions 1 and 3, upon retirement by the judge at an early retirement date.

Subd. 16. [Repealed, 2006 c 271 art 11 s 49]

Subd. 17. [Repealed, 2006 c 271 art 11 s 49]

Subd. 18. [Repealed, 2006 c 271 art 11 s 49]

Subd. 19. [Repealed, 2006 c 271 art 11 s 49]

Subd. 20. [Repealed, 2006 c 271 art 11 s 49]

Subd. 21. **Final average compensation.** "Final average compensation" means the total amount of salary payable to a judge in the highest five years out of the last ten years before the termination of judicial service, divided by five if the number of years of service by the judge equals or exceeds ten. If the number of years of service by the judge is less than ten, but more than five, the highest five years of salary must be counted. If the number of years of service by the judge is less than five, the aggregate salary for the period of service must be divided by the number of months in the period and multiplied by 12.

Subd. 21a. **Covered salary limitation.** "Final average compensation" is subject to the limitations of section 356.611.

Subd. 21b. **Judge.** "Judge" means a judge or a justice of any court as defined under subdivision 7b.

Subd. 21c. **Judges' retirement fund; retirement fund; fund.** "Judges' retirement fund," "retirement fund," or "fund" means the fund created by section 490.123.

Subd. 21d. **Mandatory retirement date.** "Mandatory retirement date" means the last day of the month in which a judge has attained 70 years of age.

Subd. 21e. **Normal retirement annuity.** Except as otherwise provided in this chapter, "normal retirement annuity" means an annuity to which a judge is entitled under section 490.124, subdivision 1, upon retirement on or after the normal retirement date of the judge.

Subd. 21f. **Normal retirement date.** (a) For a judge in the tier I program, "normal retirement date" means the date the judge attains age 65.

(b) For a judge in the tier II program, normal retirement date means the date the judge attains age 66.

Subd. 22. **Service credit limit.** "Service credit limit" means, for a judge covered by tier I, the greater of: (1) 24 years of allowable service under this chapter; or (2) for a judge with allowable service rendered before July 1, 1980, the number of years of allowable service under chapter 490, which, when multiplied by the percentage 2.7 or 3.2, whichever is applicable to each year of service, equals 76.8. For a judge covered by tier II, there is no service credit limit.

Subd. 23. **Surviving spouse.** "Surviving spouse" means the surviving legally married spouse of a deceased judge.

Subd. 24. **Survivor's annuity.** "Survivor's annuity" means an annuity to which a surviving spouse or dependent child is entitled under section 490.124, subdivision 9.

Subd. 25. **Tier I.** "Tier I" is the benefit program of the retirement plan with a membership specified by section 490.1221, paragraph (b), and governed by sections 356.415, subdivisions 1 and 1f; and 490.121 to 490.133, except as modified in sections 490.121, subdivision 21f, paragraph (b); 490.1222; 490.123, subdivision 1a, paragraph (b); and 490.124, subdivision 1, paragraphs (c) and (d).

Subd. 26. **Tier II.** "Tier II" is the benefit program of the retirement plan with a membership specified by section 490.1221, paragraph (c), and governed by sections 356.415, subdivisions 1 and 1f; 490.121 to 490.133, as modified in section 490.121, subdivision 21f, paragraph (b); 490.1222; 490.123, subdivision 1a, paragraph (b); and 490.124, subdivision 1, paragraphs (c) and (d).

**History:** 1973 c 744 s 1; 1977 c 307 s 28; 1978 c 626 s 1; 1978 c 672 s 13; 1979 c 296 s 2; 1981 c 224 s 223-226; 1986 c 444; 1987 c 259 s 79; 2000 c 461 art 18 s 4,5; 1Sp2001 c 10 art 3 s 27; 2002 c 392 art 11 s 52; 2004 c 267 art 7 s 7; 1Sp2005 c 8 art 1 s 30,31; art 2 s 2; art 3 s 9; 2006 c 271 art 11 s 1-21,48; 2007 c 134 art 2 s 47,48; 2013 c 111 art 4 s 19; art 14 s 4-7; 2014 c 275 art 2 s 20,21; 2014 c 296 art 4 s 9; 2015 c 68 art 3 s 16

#### 490.1211 UNIFORMED SERVICE.

(a) A judge who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment as a judge upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e), may obtain service credit for the period of the uniformed service, provided that the judge did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The judge may obtain credit by paying into the fund equivalent member contribution based on the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the judge would have received if the judge had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the judge's average salary rate during the 12-month period of judicial employment rendered immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this section are not paid in full, the judge's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this section.

(e) To receive allowable service credit under this section, the contributions specified in this section and section 490.121 must be transmitted to the fund during the period which begins with the date on which the individual returns to judicial employment and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is calculated to be less than one year, the contributions required under this section to receive service credit may be within one year from the discharge date.

(f) The amount of allowable service credit obtainable under this section and section 490.121 may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The state court administrator shall pay interest on all equivalent member and employer contribution amounts payable under this section. Interest must be computed at the rate of 8.5 percent until June 30, 2015, and eight percent thereafter compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

**History:** 2004 c 267 art 3 s 8; 2015 c 68 art 3 s 17

#### **490.122 ADMINISTRATION OF JUDGES' RETIREMENT.**

Subdivision 1. **Administration.** The policy-making, management, and administrative functions governing the operation of the judges' retirement fund and the administration of this chapter are vested in the board of directors and executive director of the Minnesota State Retirement System. In administering the plan and fund, the board and the director have the same duties, authority, and responsibility as are provided in chapter 352.

Subd. 2. **Inapplicability of certain laws.** Except as otherwise specified, no provision of chapter 352 applies to the judges' retirement fund or any judge.

Subd. 3. **Fiduciary responsibility.** Fiduciary activities relating to the uniform judges' retirement plan must be undertaken in a manner consistent with chapter 356A.

**History:** 1973 c 744 s 2; 1981 c 224 s 227; 1989 c 319 art 8 s 29; 2006 c 271 art 11 s 22

**490.1221 JUDGES PLAN PROGRAMS.**

(a) Members of the judges retirement plan are members of either the tier I or tier II program.

(b) A tier I program judge is a person who was first appointed or elected as a judge before July 1, 2013, who was not eligible for the tier II program because the judge had five or more years of allowable service on or before December 30, 2013, or did not elect that program.

(c) A tier II program judge is a person who:

(1) was first appointed or elected as a judge after June 30, 2013; or

(2) was first appointed or elected as a judge before July 1, 2013, had less than five years of allowable service on or before December 30, 2013, and made an election under Laws 2013, chapter 111, article 14, section 14, to be in the tier II program.

**History:** 2013 c 111 art 14 s 8

**490.1222 APPLICATION OF SERVICE CREDIT LIMIT.**

The service credit limit specified in section 490.121, subdivision 22, does not apply to a judge in the tier II program.

**History:** 2013 c 111 art 14 s 9

**490.123 JUDGES' RETIREMENT FUND.**

Subdivision 1. **Fund creation; revenue and authorized disbursements.** (a) There is created a special fund to be known as the "judges' retirement fund."

(b) The judges' retirement fund must be credited with all contributions; all interest, dividends, and other investment proceeds; and all other income authorized by this chapter or other applicable law.

(c) From this fund there are appropriated the payments authorized by this chapter, in the amounts and at the times provided, including the necessary and reasonable expenses of the Minnesota State Retirement System in administering the fund.

Subd. 1a. **Member contribution rates.** (a) A judge in the tier I program whose service does not exceed the service credit limit in section 490.121, subdivision 22, shall contribute to the fund from each salary payment a sum equal to 9.00 percent of salary.

(b) A judge in the tier II program shall contribute to the fund from each salary payment a sum equal to 7.00 percent of salary.

(c) Contributions under this subdivision are payable by salary deduction. The deduction must be made by the state court administrator under section 352.04, subdivisions 4, 5, and 8.

Subd. 1b. **Employer contribution rate.** (a) The employer contribution rate to the fund on behalf of a judge is 22.5 percent of salary. The employer obligation continues after a judge exceeds the service credit limit in section 490.121, subdivision 22.

(b) The employer contribution must be paid by the state court administrator. The employer contribution is payable at the same time as member contributions are made under subdivision 1a or as employee contributions are made to the unclassified program governed by chapter 352D for judges whose service exceeds the limit in section 490.121, subdivision 22, are remitted.

Subd. 1c. [Repealed, 2009 c 169 art 1 s 77]

Subd. 1d. [Repealed, 2002 c 220 art 10 s 40]

Subd. 1e. [Repealed, 2009 c 169 art 1 s 77]

Subd. 2. **Commissioner of management and budget.** The commissioner of management and budget is the ex officio treasurer of the judges' retirement fund. The commissioner's general bond to the state must be conditioned to cover all liability for acting as the treasurer of the fund. All money received by the commissioner under this section must be set aside in the state treasury to the credit of the judges' retirement fund.

Subd. 3. **Investment.** (a) The executive director of the Minnesota State Retirement System shall, from time to time, certify to the State Board of Investment such portions of the judges' retirement fund as in the director's judgment may not be required for immediate use.

(b) The State Board of Investment shall thereupon invest and reinvest sums so certified in such securities as are duly authorized legal investments for such purposes under section 11A.24 in compliance with sections 356A.04 and 356A.06.

Subd. 4. **Correction of contribution errors.** (a) If erroneous employee deductions and employer contributions are caused by an error in plan coverage involving the judges retirement plan and any other plan specified in section 356.99, that section applies.

(b) The provisions of section 352.04, subdivisions 8 and 9, apply to the judges' retirement plan, except that if employee deductions or contributions are erroneously transmitted to the judges' retirement fund for service rendered after the service credit limit under section 490.121, subdivision 22, has been attained, consistent with section 352D.04, subdivision 2, no employer contributions may be transferred.

**History:** 1973 c 492 s 14; 1973 c 744 s 3; 1980 c 607 art 14 s 45 subd 2; s 46; art 15 s 16; 1980 c 614 s 155; 1981 c 224 s 228; 1986 c 444; 1988 c 709 art 10 s 1; 1991 c 345 art 1 s 103; 1992 c 363 art 1 s 18; 1992 c 492 s 2; 1992 c 513 art 4 s 45; 1998 c 390 art 5 s 4,5; 2000 c 461 art 18 s 6,7; 2002 c 220 art 10 s 34; 2003 c 112 art 2 s 47; 2006 c 271 art 11 s 23-28,48; 2009 c 101 art 2 s 109; 2009 c 169 art 1 s 74,75; 2010 c 359 art 2 s 18; 2013 c 111 art 14 s 10,11

#### **490.124 MATURITY OF BENEFITS; RETIREMENT AND SURVIVORS' ANNUITIES.**

Subdivision 1. **Retirement annuity.** (a) Except as qualified hereinafter from and after the mandatory retirement date, the normal retirement date, the early retirement date, or one year from the disability retirement date, as the case may be, a retiring judge is eligible to receive a retirement annuity from the judges' retirement fund.

(b) For a tier I program judge, the retirement annuity is an amount equal to:

(1) 2.7 percent multiplied by the judge's final average compensation with that result then multiplied by the number of years and fractions of years of allowable service rendered before July 1, 1980; plus

(2) 3.2 percent multiplied by the judge's final average compensation with that result then multiplied by the number of years and fractions of years of allowable service rendered after June 30, 1980.

(c) For a tier II program judge who was first appointed or elected as a judge before July 1, 2013, the retirement annuity is an amount equal to:



(1) 3.2 percent multiplied by the judge's final average compensation with that result then multiplied by the number of years and fractions of years of allowable service rendered before January 1, 2014; plus

(2) 2.5 percent multiplied by the judge's final average compensation with that result then multiplied by the number of years and fractions of years of allowable service rendered after December 31, 2013.

(d) For a tier II program judge who was first appointed or elected as a judge after June 30, 2013, the retirement annuity is an amount equal to the percent specified in section 356.315, subdivision 8a, multiplied by the judge's final average compensation with that result then multiplied by the number of years and fractions of years of allowable service.

(e) For a judge in the tier I program, service that exceeds the service credit limit in section 490.121, subdivision 22, must be excluded in calculating the retirement annuity, but the compensation earned by the judge during this period of judicial service must be used in determining a judge's final average compensation and calculating the retirement annuity.

**Subd. 2. Minimum service requirement.** (a) Unless section 356.30 applies, a judge is not eligible for an annuity at the normal retirement date or the early retirement date if the judge has less than five years of allowable service.

(b) A judge who retires on or, as permitted under this chapter, after the judge's mandatory retirement date, is entitled to a proportionate annuity based upon the allowable service of the judge at the date of retirement.

**Subd. 3. Early reduced retirement.** The retirement annuity under subdivision 1 of any judge who elects to retire at an early retirement date must be reduced by one-half of one percent per month from the retirement date to the normal retirement date.

**Subd. 4. Disability retirement.** (a) When the governor determines that a judge is disabled under section 490.121, subdivision 13, notice of the governor's determination must be sent to the judge, to the chief justice of the Supreme Court, to the state court administrator, and to the executive director of the Minnesota State Retirement System.

(b) From and after disability retirement date, a disabled judge is entitled to continuation of the judge's full salary payable by the judge's employer, as if the judge's office were not vacated by retirement, for a period of up to one full year, but in no event beyond the judge's mandatory retirement date. During this year, the judge is entitled to earn additional service credit in the judges' retirement plan. The salary payable to a disabled judge is subject to retirement deductions and must be included in computing final average compensation of the judge.

(c) At the conclusion of the year of continued salary following a disability or upon the judge's mandatory retirement date, whichever is earlier, the disabled judge is entitled to a disability retirement annuity computed as provided in subdivision 1. If the computed retirement annuity is a smaller amount, the judge is entitled to receive a minimum annuity of 25 percent of the judge's final average compensation.

**Subd. 5. Deferred benefits.** (a) A benefit to which a judge is entitled under this section may be deferred until the early or normal retirement date or later, notwithstanding the termination of the judge's service prior thereto.

(b) The retirement annuity of, or the survivor benefit payable on behalf of, a former judge, who terminated service before July 1, 1997, which is not first payable until after June 30, 1997, must be increased on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under

section 356.215, subdivision 8, from five percent to six percent under a calculation procedure and tables adopted by the board of directors of the Minnesota State Retirement System and approved by the actuary retained under section 356.214.

Subd. 6. [Repealed, 2006 c 271 art 11 s 49]

Subd. 7. [Repealed, 1977 c 432 s 49]

Subd. 8. **Exclusive normal retirement benefits.** (a) Except as provided in paragraph (b), a judge who retires after December 31, 1973, is entitled to a retirement pension, retirement compensation or other retirement payment under statutes applicable solely to judges under this section only.

(b) A judge who was in office before January 1, 1974, who retires at or after normal retirement age may then elect to receive during the judge's lifetime a normal retirement annuity computed on the basis of retirement compensation provided for such judge under statutes in effect on December 31, 1973, in lieu of the amount of normal retirement annuity otherwise computed under this chapter.

Subd. 9. **Survivors' annuity.** (a) Upon the death of a judge before retirement, or upon the death of a person who has qualified for an annuity under this section but who ceases to be a judge before retirement and who has not received a refund of contributions under subdivision 12, a surviving spouse is entitled to, or, if there be no surviving spouse, dependent children, are entitled to receive an annuity, payable monthly, equal in total to 60 percent of the normal retirement annuity which would have been payable to the judge or former judge had the date of death been the normal retirement date.

(b) The annuity payable to a surviving spouse or to dependent children is an amount of not less than 25 percent of the judge's or the former judge's final average compensation.

(c) The surviving spouse of a deceased judge may elect to receive, in lieu of the annuity under paragraphs (a) and (b), an annuity equal to the 100 percent joint and survivor annuity which the judge or former judge could have qualified for on the date of death.

Subd. 10. **Prior survivors' benefits; limitation.** (a) Benefits provided under Minnesota Statutes 2004, section 490.102, subdivision 6, or 490.1091, for a surviving spouse of a retired judge, payable after the death of the judge, are limited to spouses of judges who have retired before January 1, 1974.

(b) No other judge in office on or after January 1, 1974, is required to contribute under Minnesota Statutes 2004, section 490.102, subdivision 6, or 490.109.

Subd. 11. **Limitation on survivor benefits; optional annuities.** (a) No survivor or death benefits may be paid in connection with the death of a judge who retires after December 31, 1973, except as otherwise provided in this chapter.

(b) Except as provided in subdivision 10, a judge may elect to receive, instead of the normal retirement annuity, an optional retirement annuity in the form of either (1) an annuity payable for a period certain and for life after that period, (2) a joint and survivor annuity without reinstatement if the designated beneficiary predeceases the retired judge, or (3) a joint and survivor annuity with reinstatement if the designated beneficiary predeceases the retired judge.

(c) An optional retirement annuity must be actuarially equivalent to a single-life annuity with no term certain and must be established by the board of directors of the Minnesota State Retirement System. In establishing these optional retirement annuity forms, the board shall obtain the written recommendation of

the actuary retained under section 356.214. The recommendations must be retained as a part of the permanent records of the board.

Subd. 12. **Refund.** (a) A person who ceases to be a judge is entitled to a refund in an amount that is equal to all of the member's employee contributions to the judges' retirement fund plus interest computed under section 352.22, subdivision 2.

(b) A refund of contributions under paragraph (a) terminates all service credits and all rights and benefits of the judge and the judge's survivors under this chapter.

(c) A person who becomes a judge again after taking a refund under paragraph (a) may reinstate the previously terminated allowable service credit, rights, and benefits by repaying the total amount of the previously received refund. The refund repayment must include interest on the total amount previously received at the annual rate of 8.5 percent until June 30, 2015, and eight percent thereafter, compounded annually, from the date on which the refund was received until the date on which the refund is repaid.

Subd. 13. **Death refund.** If a judge who has not received other benefits under this chapter dies and there are no survivor benefits payable under this chapter, a refund plus interest as provided in subdivision 12 is payable to the last designated beneficiary named on a form filed with the director before the death of the judge, or, if no designation is on file, to the estate of the deceased judge.

Subd. 14. **Postretirement adjustment eligibility.** A retirement annuity under subdivision 1, 3, or 5, a disability benefit under subdivision 4, and a survivor's annuity under subdivision 9 or 11 are eligible for postretirement adjustments under section 356.415.

**History:** 1973 c 744 s 4; 1974 c 406 s 92; 1975 c 418 s 3,4; 1978 c 626 s 2,3; 1979 c 296 s 3; 1980 c 607 art 15 s 17; 1981 c 224 s 229-232; 1981 c 319 s 1,2; 1983 c 128 s 35; 1983 c 286 s 22; 1984 c 574 s 16; 1986 c 444; 1987 c 259 s 80; 1988 c 709 art 9 s 4; art 10 s 2; 1989 c 319 art 5 s 7; 1991 c 345 art 1 s 104; 1992 c 432 art 1 s 10; 1992 c 598 art 1 s 13; 1993 c 307 art 1 s 41,42; 1996 c 438 art 1 s 4; 1997 c 233 art 1 s 66,67; 2000 c 461 art 18 s 8; 2002 c 392 art 11 s 52; 2004 c 267 art 9 s 23; 2006 c 271 art 11 s 29-39,48; art 12 s 3; 2009 c 169 art 1 s 76; 2013 c 111 art 4 s 20; art 14 s 12; 2014 c 275 art 2 s 22; 2015 c 68 art 2 s 17

#### **490.125 MANDATORY RETIREMENT.**

Subdivision 1. **Mandatory retirement age.** Except as otherwise provided in this chapter, a judge shall terminate active service as a judge on the judge's mandatory retirement date.

Subd. 2. **Exception.** Any judge in office on December 31, 1973 who shall have attained 70 years of age on or prior to such date shall retire upon the expiration of the term of office of such judge.

**History:** 1973 c 744 s 5 subs 1,2; 1986 c 444; 2006 c 271 art 11 s 40,41,48

#### **490.126 PROCEDURES.**

Subdivision 1. **Compulsory retirement.** Proceedings for compulsory retirement of a judge, if necessary, must be conducted in accordance with rules issued by the Supreme Court under section 490A.02.

Subd. 2. **Vacancies.** Any judge may make written application to the governor for retirement. The governor thereupon shall direct the judge's retirement by written order which, when filed in the Office of the Secretary of State, effects a vacancy in the office to be filled as provided by law.

Subd. 3. **Application for annuity or refund.** An application for an annuity or a refund under this chapter may be made by the potential annuitant or by someone authorized to act for the potential annuitant. Every application for an annuity or refund, accompanied by a proof of age and by a record of years of service when required, must be submitted to the executive director of the Minnesota State Retirement System in a form prescribed by the director.

Subd. 4. **Manner of payment.** Unless otherwise specifically provided by statute or agreed upon by the annuitant and the board of directors of the Minnesota State Retirement System, annuities payable under this chapter must be paid in the manner and at the intervals as prescribed by the executive director of the Minnesota State Retirement System. The annuity ceases with the last payment received by the annuitant while living.

Subd. 5. **Exemption from process; no assignment.** The provisions of section 356.401 apply to the judges retirement plan.

**History:** 1973 c 744 s 6; 1981 c 224 s 233; 1986 c 444; 1988 c 668 s 10; 1997 c 203 art 6 s 92; 1Sp2005 c 8 art 10 s 79; 2006 c 271 art 11 s 42,48

**490.127** [Repealed, 1981 c 224 s 276]

**490.128** [Repealed, 1981 c 224 s 276]

**490.129** [Repealed, 1992 c 492 s 3]

**490.13** [Repealed, 1981 c 224 s 276]

**490.131** [Repealed, 1978 c 563 s 31]

**490.132** [Repealed, 2006 c 271 art 11 s 49]

#### **490.133 RETIREMENT; TRANSITION; TRANSFER TO COURT OF APPEALS.**

(a) If a judge to whom or to whose survivors benefits would be payable under Minnesota Statutes 2004, sections 490.101 to 490.12, is elected or appointed to the Court of Appeals, that judge and the judge's survivors continue to be eligible for benefits under those sections and not under sections 490.121 to 490.126.

(b) In the case of a judge to whom paragraph (a) applies, the service of the judge in the Court of Appeals must be added to the prior service as district judge, probate judge, or judge of any other court of record in determining eligibility and the compensation of a judge of the Court of Appeals at the time of the judge's death, disability, or retirement is the "compensation allotted to the office" for the purposes of calculating benefit amounts.

(c) All other judges of the Court of Appeals and their survivors are subject to the retirement and survivor's annuity provisions of this chapter.

**History:** 1982 c 501 s 24; 2006 c 271 art 11 s 43,48; 2010 c 382 s 76

**490.15** [Repealed, 2006 c 271 art 11 s 49]

**490.16** [Repealed, 2006 c 271 art 11 s 49]

**490.17** [Repealed, 1973 c 214 s 3]

**490.18** [Repealed, 2006 c 271 art 11 s 49]