

CHAPTER 490

JUDGES RETIREMENT, JUDICIAL STANDARDS

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RETIREMENT

490.01 [Repealed, 1949 c 640 s 5 subd 2]

490.02 [Repealed, 1949 c 640 s 5 subd 2]

490.025 RETIREMENT OF SUPREME COURT JUSTICES.

Subdivision 1. **Requisites.** When a justice of the supreme court, having served at least one term, arrives at the age of 70 years, or having served at least two full terms or the equivalent thereof, becomes incapacitated for the performance of official duties to the extent that the public service suffers therefrom, and makes written application to the governor for retirement, the governor, on determining that such justice has arrived at such age and has served at least one term or that such disability exists, shall direct the retirement by written order which shall effect a vacancy in the office to be filled as provided by law.

Subd. 2. **Retirement compensation; amount.** A justice retiring pursuant to subdivision 1 shall be entitled to receive the compensation allotted to the office of the justice for the remainder of the term for which the justice was elected. If a justice be retired for age or disability and, at the time of retirement, had served as a justice for two full terms or the equivalent thereof or as a justice and as a judge of the district court for 15 years, the justice shall, after qualifying for a pension be entitled to receive, for the remainder of the life of the justice, a retirement annuity equal to one-half of the compensation allotted to the office of the justice at the time of retirement or discontinuance of service plus 2-1/2 percent of the compensation allotted to the office of the justice at the time of retirement or discontinuance of service for each year, not exceeding ten, which the justice served in office in excess of two full terms, or the equivalent thereof, on the supreme court or in excess of 15 years as a justice of the supreme court and as a judge of the district court. Any retirement annuity to which a justice is entitled pursuant to this section may be deferred until the former justice attains retirement age notwithstanding the termination of service by the justice prior to attaining retirement age. The retirement annuity shall be paid by the executive director of the Minnesota state retirement system in the same manner as other retirement annuities and benefits are paid.

Subd. 3. **Retirement age.** If a justice of the supreme court serves for two full terms and during this period attains the age of 70, the justice, upon the completion of this period, may apply for and be entitled to receive, for the remainder of the life of the

justice, the equivalent of the retirement annuity granted to retiring justices of the supreme court pursuant to subdivision 2, or if a justice serves a minimum period of 12 years on the supreme court and attains the age of 65, the justice may, on or after terminating active service, be entitled to apply for and receive, for the remainder of the life of the justice, the equivalent of the retirement annuity payable pursuant to subdivision 2 to a retired justice whose final elective term has expired.

Subd. 4. Age limit. Unless at the time of this enactment a justice has already reached the age of 73, the justice shall not acquire an increase of two and one-half percent of the compensation allotted to the office in retirement pay, as provided in subdivision 2, after the justice has reached the age of 73 years.

Subd. 5. Commissioner. Upon retirement of a justice of the supreme court, the court may appoint the justice a commissioner of that court to aid and assist in the performance of such of its duties as may be assigned with the justice's consent.

Subd. 6. Prior retirement. Each justice and commissioner of the supreme court who has heretofore retired under the statutes in force at the time of retirement shall, from the date of retirement, receive retirement compensation at the rate and for the time provided in the statutes in force at the time of retirement.

Subd. 7. [Repealed, 1967 c 700 s 10]

Subd. 8. [Repealed, 1980 c 614 s 191]

Subd. 9. [Repealed, 1967 c 700 s 10]

History: 1943 c 595 s 1-4; 1953 c 360 s 1; 1953 c 455 s 1,2; 1955 c 648 s 1; 1959 c 564 s 1; Ex1967 c 38 s 4; 1969 c 399 s 49; 1973 c 494 s 14,15; 1974 c 445 s 16,17; 1982 c 578 art 1 s 12,13; 1986 c 444

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 RETIREMENT OF DISTRICT JUDGE.

Subdivision 1. (a) When a judge of the district court who has served for not less than 15 years as such judge, or as such judge and as judge of a court of record, arrives at the age of 70 years and makes written application to the governor for retirement, the governor shall direct the retirement by a written order.

(b) When a judge of the district court who has served for at least 24 years as such judge, and as judge of a court of record, arrives at the age of 65 years and makes written application to the governor for retirement, the governor shall direct the retirement by a written order.

Subd. 2. If a judge of the district court becomes mentally or physically incapacitated from performing official duties and the governor has determined that the judge shall be retired on the application of either the judge or of the legally appointed guardian of the judge or if a judge is retired by the supreme court because of a disability pursuant to section 490.16, subdivision 3, the judge shall be entitled to receive a disability benefit.

If the judge has served for not less than 15 years as a judge of district court, or as a judge of district court and as a judge of a court of record, the disabled judge shall be

entitled to receive the maximum retirement allowance provided by law for a judge of the district court pursuant to section 490.102. If the judge has served less than the number of years required for the maximum retirement allowance pursuant to section 490.102 but for a period of not less than six years, the disabled judge shall be entitled to receive a retirement allowance in an amount equal to that portion of the maximum retirement allowance pursuant to section 490.102, that the years of service as a district court judge, or as a judge of district court and as a judge of a court of record, prior to retirement for disability, bears to the number of years required for the maximum retirement allowance of a district court judge. Years of service shall be determined only on the basis of a whole year and not on the basis of any fractional service.

Subd. 3. Upon the filing of such order in the office of the secretary of state, the office of such judge shall become vacant.

Subd. 4. When the term of any judge of the district court would expire three years or less from the time when the judge would become eligible to retire under the provisions of this section and section 490.102, upon written application by such judge to the governor stating an intention to retire upon eligibility, the governor shall forthwith make a written order accepting such retirement application, and extending the term of office for three years or such proportion thereof as may be necessary for eligibility for such retirement.

History: 1949 c 640 s 1; 1959 c 688 s 2; 1965 c 762 s 1,2; 1974 c 129 s 1; 1981 c 224 s 219; 1986 c 444

490.102 COMPENSATION ALLOWANCE.

Subdivision 1. A judge who elects to retire under the provisions of section 490.101 and who has an unexpired balance of the elected term yet to run after such retirement, shall, in order to receive the retirement compensation hereinafter outlined, waive in writing the compensation allotted to the office, from the date of such retirement to the date of the expiration of the term for which such judge was elected, and receive only during such period and thereafter retirement pay as hereinafter outlined. This subdivision shall not apply to any judge who has retired prior to April 25, 1959.

Subd. 2. (a) If, at the time of retirement, the judge has attained the age of at least 70 years and has served for 15 years as such judge, or as such judge and as judge of a court of record, the retiree shall receive for life, one-half the compensation allotted to the office at the time of retirement or on July 1, 1967, whichever is greater.

(b) If, at the time of retirement, the judge has attained the age of at least 65 years and has served for 24 years as such judge, or as such judge and as a judge of a court of record, the retiree shall receive for life, one-half of the compensation allotted for the office at the time of retirement or on July 1, 1967, whichever is greater.

Except for per diem payments made pursuant to section 484.62, and retirement pay adjustments pursuant to section 490.025, subdivision 2, it is unlawful for any public officer to pay a retired judge an amount greater than one-half of the compensation allotted to the office of such retired judge at the time of retirement or on July 1, 1967, whichever is greater, except when said retired judge shall have been appointed by the district court, or by the supreme court, to serve as a special master in litigation before the district court; in which case per diem payments may be made to said retired judge in amounts equal to per diem payments made pursuant to section 484.62. Where such payments are hereafter made in violation of this subdivision, it is the duty of the public officer making such payment to recover the amount so paid but without interest. Such recovery may be made by as many as 30 installment deductions from future retirement payments to a retired judge or by action in the district court. Unrecovered overpayments outstanding at the time of the death of a retired judge shall be a lien upon the judge's estate, in favor of the state of Minnesota.

Subd. 3. Any judge of the district court who is serving in such capacity on April 24, 1949 and who has attained or hereafter attains, the age of 73 or more years and has completed 15 years of service, as such judge, or as such judge and as judge of a court

of record, shall receive retirement pay hereunder if the judge applies for retirement within one year after becoming eligible, but not otherwise.

Any judge of the district court whose initial service as such judge began after April 24, 1949, after reaching a 70th birthday, shall apply for retirement within one year after such birthday or forfeit all retirement benefits hereunder. However, if a judge of the district court has not completed 15 years of service on attaining the age of 70 years, the judge shall receive retirement pay hereunder if the judge applies for retirement within six months of the date of completion of 15 years of service. Provided that any district judge past the age of 74 years still serving on the bench and for whom retirement has been allowed by a previous act passed by the 1959 legislature shall be permitted retirement allowance if the judge retires during the current term of office or during an extended term of three years thereafter which extension may be granted in the same manner as provided in section 490.101, subdivision 4.

Subd. 3a. If a judge of the district court has attained the age of at least 70 years and has completed ten or more years of service as a district court judge or fifteen or more years as a judge of a court of record including at least six years as a district court judge but less than the number of years required for maximum retirement benefits, the judge may apply for retirement and receive retirement pay of that portion of the maximum retirement allowance allotted to the office which the years of service as a district court judge, prior to retirement, bears to the number of years required for the maximum retirement allowance of a district court judge. Years of service shall be determined by the whole year rather than a fraction thereof. Any district court judge presently serving who is over 70 years of age shall forfeit any benefits under this subdivision by serving beyond the expiration of the judge's present term.

Subd. 4. Retirement allowances shall be paid by the executive director of the Minnesota state retirement system in the same manner as other benefits are paid. Payments by a county, if any, shall be made in the manner prescribed by the director.

Subd. 5. [Repealed, 1977 c 35 s 21]

Subd. 6. The spouse of every judge of the district or supreme court who dies, in active service, shall be paid one-half of the retirement compensation to which the judge would have been entitled on the date of death, if the judge would have been otherwise eligible for retirement under the provisions of section 490.101 or under section 490.025, and had retired on that date, irrespective of whether the judge attained the age of retirement at the date of death or not and irrespective of whether the judge had served 15 years as district judge or as a judge of a court of record, and irrespective of whether the judge had previously been eligible to retire, but had not retired under the provisions of section 490.101, prior to death, provided the spouse had been married to the judge for three years prior to the judge's death. The spouse of every judge of the district court or supreme court who dies after retiring shall be paid one-half of the retirement compensation which the judge was receiving at the date of death.

Any judge who has heretofore retired and exercised the option previously set forth in section 490.102, shall, after July 1, 1961, be paid the full retirement compensation herein provided for, and the judge's spouse shall upon the judge's death be entitled to compensation as herein set forth.

The term "spouse" as used in this subdivision means the surviving spouse of a district or supreme court judge, but only if the spouse was married to the judge for a period of not less than three years immediately prior to the date of the judge's retirement or death, whichever occurs first.

If the spouse, either of a retired judge or a judge who dies in active service, who is otherwise qualified under this section, has not attained the age of 40 years at the time of the judge's death, the spouse will not become eligible for retirement compensation payments hereunder until the spouse's 40th birthday but shall receive the payments thereafter.

A spouse who is entitled to a retirement compensation under the provisions of this subdivision and subdivision 7 shall be paid the retirement compensation for the period

of the spouse's life, unless the spouse remarries, in which event the retirement compensation is to cease and terminate. All judges of the district court and of the supreme court shall contribute four percent of their state salaries, which amount shall be deducted from their salaries at least once each month and paid to the state treasurer to be deposited in a special survivor retirement account. This contribution shall be for the purpose of providing the survivor benefits established by this subdivision and subdivision 7 and such amount as may be necessary to carry out this purpose is hereby appropriated from the special retirement account. It is declared to be the policy of the legislature that the survivor benefits provided for herein shall be wholly paid from contributions by the judges to the special retirement account. To implement this policy the rate of contribution by the judges shall be reviewed periodically and contributions adjusted to make this account sufficient to cover all benefits.

Subd. 7. In addition to the provisions of Minnesota Statutes 1961, section 490.102, subdivisions 1 to 6, inclusive, and notwithstanding the limitations thereof, the surviving spouse of every judge of the district or supreme court who died in active service prior to May 19, 1961, who had been married to the judge for five years prior to the judge's death and who has now attained the age of 49 years, shall be paid during the spouse's life one-half of the retirement compensation to which the judge would have been entitled, if the judge had been retired as of date of death. For the purposes of this subdivision, the judge shall be deemed to have been entitled to full retirement and to have retired as of the day of death. If retirement of a district judge from active service was by executive order prior to enactment of Laws 1949, chapter 640, the judge's unmarried surviving spouse who would otherwise qualify under this section will receive one-half of the compensation the judge would have received if the judge's retirement occurred in 1949 after enactment of that law and the judge was eligible for compensation thereunder.

Subd. 8. On June 30 of each year, the executive director of the Minnesota state retirement system shall review the fiscal condition of the special survivor retirement account in the light of the prospective demands for payment therefrom in the next fiscal year. If the director determines that the balance in such account on June 30 plus the prospective receipts in the next fiscal year appear to be insufficient to meet the demands on such account during the next fiscal year, the director on July 1 of each year shall make an order increasing the rate of contribution to such account by the several judges of the district court from four percent of salary to such rate of contribution as will, in the judgment of the director, provide sufficient funds in said special survivor benefit account to pay all demand thereon during the next fiscal year. If on any following June 30, the director should determine that a lower rate of contribution will provide sufficient moneys to pay all demands on such special survivor benefit account, the director may on the next July 1, make and file an order reducing the rate of contribution to such rate as will in the director's judgment provide sufficient moneys to meet all demands on such special account in the current fiscal year but in no event lower than four percent. Deductions of contributions shall be made in accordance with rates prescribed by law or by order of the director, as the case may be.

History: 1949 c 640 s 2; 1959 c 688 s 3; Ex1961 c 15 s 1-3; 1963 c 739 s 1; 1963 c 844 s 1-3; 1965 c 762 s 3-5; 1967 c 382 s 1; Ex1967 c 38 s 5; 1969 c 987 s 1; 1974 c 129 s 2; 1974 c 417 s 3; 1974 c 445 s 18,19; 1981 c 31 s 8,9; 1986 c 444

490.103 PRIOR RETIREMENT.

A judge of the district court who has heretofore retired as provided by law shall hereafter receive one-half of the compensation allotted to the office from which the judge retired.

History: 1949 c 640 s 3; 1959 c 688 s 4; Ex1961 c 15 s 4; 1986 c 444

490.104 [Repealed, 1981 c 224 s 276]

490.105 RETIREMENT COMPENSATION, CERTAIN DISTRICT AND SUPREME COURT JUDGES.

The pension of a judge of the district or supreme court who retires before June 3, 1967, or of the surviving spouse of a judge of the district or supreme court who dies before June 3, 1967, shall remain in the same amount as was payable prior to June 3, 1967.

History: Ex1967 c 38 s 6; 1986 c 444

490.106 AGREEMENT TO ACCEPT BENEFITS, EFFECT.

(1) Upon submission of an agreement to the director of the Minnesota state retirement system prior to July 1, 1975, signed by a retired district or supreme court judge whereby the retired judge who is entitled to receive benefits computed under laws in effect on or prior to December 31, 1973 shall agree to accept as of July 1, 1975, and thereafter, a benefit based on the salary allotted the retired judge's former office at the salary level in effect on January 1, 1975, and in the same proportion of the salary as the proportion to which the retired judge was entitled upon retirement; the state shall agree to accept the liability for payment of the retirement benefit for the life of the retired judge and upon the death of the retired judge the payment of the benefit of the surviving spouse, if any and provided spouse is otherwise entitled thereto, with adjustments in the benefit amount only as may be provided under the provisions of the Minnesota postretirement investment fund after January 1, 1976, and to pay to the judge any accrued benefits due to the retired judge as a result of the nonpayment of benefits since January 1, 1975, or as a result of any deficiency in benefits paid to the retired judge from and after November 1971.

Upon receipt of agreements, for each retired judge who signed an agreement, the director shall make the appropriate transfer of funds to the judges' retirement fund from the assets, if any, in the account for payment of retirement benefits to the retired district or supreme court judges. The benefit shall be paid from the judges' retirement fund and shall be adjusted in the same manner at the same time as other benefits payable from the Minnesota postretirement investment fund to state employees.

(2) Upon submission of agreements to the director of the Minnesota state retirement system by each district court judge who elected to continue contributions to the survivors' account as provided by section 490.124, subdivision 10, wherein each judge shall agree to accept at time of retirement and for life a benefit based on a salary not greater than the salary allotted to the office of the judge at the date of retirement and agreements signed by surviving spouses of deceased district and supreme court judges who served as a judge between May 1961 and July 1967 wherein each surviving spouse shall agree to accept as of July 1, 1975, and thereafter, a benefit based on the salary of the deceased judge's former office at the salary level in effect on January 1, 1975; the contributions to the survivors' account made by the district court judges. Notwithstanding the provisions of section 490.102, subdivision 8, shall not be required and upon retirement of the judge, the benefit and in the event of the death of the judge, the surviving spouse's benefit, if any and provided the spouse is otherwise entitled thereto, shall be paid from the judges' retirement fund and benefits shall be adjusted at the same time and in the same manner as the benefits payable from the Minnesota postretirement investment fund to state employees; the liability for payment of the benefits payable on July 1, 1975, from the special supreme and district court survivors' account shall be transferred to the judges retirement fund and benefits shall be adjusted in the same manner at the same time as benefits payable from the Minnesota postretirement investment fund; and the director shall pay to each surviving spouse any deficiency in the amount of the benefit due the spouse since November, 1971.

Upon receipt of the agreements provided in clause 2 the director shall commence payment from the judges' retirement fund of the benefits payable as of July 1, 1975, from the special district and supreme court survivor's account. If agreements are not submitted, the contribution rate to the survivors' account shall be as required by section 490.102, subdivision 8, and the surviving spouse benefits shall not be payable from the judges' retirement fund.

District and supreme court judges not referenced in this subdivision may, prior to their retirement, submit comparable agreements to the director and thus be afforded the same benefits. The contributions to the survivors' account by any supreme court judge who makes an agreement shall not be waived but shall be thereafter paid to the judges' retirement fund.

(3) Notwithstanding any law to the contrary, except as provided by this section, the reserve to pay a retirement benefit of a judge who served as a district or supreme court judge prior to July 1, 1967, and who elected or elects to have the retirement benefit computed under laws in effect on December 31, 1973, shall not remain or be transferred to nor shall the benefit be payable from the postretirement investment fund.

History: 1975 c 418 s 2; 1980 c 607 art 14 s 45 subd 2; 1981 c 224 s 220

490.107 RETIREMENT BENEFITS; INCREASE AND PAYMENT.

(1) Effective July 1, 1978, all retirement and disability benefits payable pursuant to sections 490.11, 490.12, subdivisions 1 and 2, and 9, commencing with the monthly benefit payment accruing on and after July 1, 1978 shall be paid by the judges retirement fund.

(2) The county auditors of the counties which on March 30, 1978 are liable for the payment of retirement benefits pursuant to section 490.12, subdivision 2 or 9, or Minnesota Statutes 1978, section 487.06, shall certify to the executive director of the Minnesota state retirement system the amount of the monthly benefit that the former judge of that county is entitled to receive and, annually on each June 30 shall pay to the Minnesota state retirement system for deposit in the judges retirement fund an amount equal to the annual retirement benefit due to each retired judge for the following fiscal year plus \$25 for administrative expense. In the event of the death of the retired judge, the director shall refund to the county from the judges retirement fund the amount of any unexpended balance of the moneys the county had paid.

(3) All payments made pursuant to sections 490.11 and 490.12, subdivision 1, after January 1, 1978, shall be made by the state regardless of the date on which the payments commenced or commence.

(4) All retirement and disability benefits to which this section applies shall be payable from the judges retirement fund and shall thereafter be adjusted in the same manner and at the same time as other benefits payable from the Minnesota postretirement investment fund. The benefit level in effect on July 1, 1978, including any increase pursuant to this clause, shall be the base for any future adjustments made pursuant to section 11A.18.

History: 1978 c 720 s 18; 1980 c 607 art 14 s 45 subd 2; 1981 c 224 s 221

490.108 TRANSFER OF THE COUNTY AND PROBATE COURT JUDGES SURVIVORS' ACCOUNT TO THE JUDGES RETIREMENT FUND.

As of June 1, 1979 the liability for the payment of any retirement benefits to the surviving spouses of deceased county and probate court judges payable and the liability for the retirement benefit coverage provided from and after June 1, 1979 to the spouses of county and probate court judges pursuant to Minnesota Statutes 1978, section 490.12, subdivision 7 shall be transferred from the county and probate court judges survivors' account established pursuant to Minnesota Statutes 1978, section 490.12, subdivisions 7 and 8 to the judges retirement fund established pursuant to Minnesota Statutes, sections 490.121 to 490.132. On June 1, 1979 the executive director of the Minnesota state retirement system shall transfer the entire assets, including all accounts payable, of the county and probate court judges survivors' account to the judges retirement fund. Any accounts payable on June 1, 1979 shall also be transferred to the judges retirement fund. The judges retirement fund shall be the successor in interest to all claims for and against the county and probate court judges survivors' account. Upon the transfer of the assets of the county and probate court judges survivors' account to the judges retirement fund, the county and probate court judges survivors' account shall cease to exist as a legal entity.

History: 1979 c 296 s 4

490.109 SURVIVOR BENEFIT CONTRIBUTION BY JUDGES.

From and after June 1, 1979, each judge who is required on June 1, 1979 to make a contribution pursuant to Minnesota Statutes 1978, section 490.12, subdivision 8 shall continue to be obligated to make an employee contribution for purposes of financing retirement benefits for the prospective surviving spouse of the judge. The employee contribution shall be at the rate of four percent of the salary of the judge and shall be made by salary deduction periodically by the employer. All amounts received under this section shall be paid to the executive director of the Minnesota state retirement system and shall be deposited to the credit of the judges retirement fund.

History: 1979 c 296 s 5

490.1091 SURVIVOR BENEFITS; AMOUNT.

The amount of the retirement benefit which shall be payable after June 1, 1979 to each surviving spouse of a deceased county or probate court judge receiving a retirement benefit from the county and probate court judges survivors' account on June 1, 1979 and to each surviving spouse of a county or probate court judge who has made contributions to the county and probate court judges survivors' account pursuant to Minnesota Statutes 1978, section 490.12, subdivision 8 and dies after June 1, 1979 shall be calculated pursuant to Minnesota Statutes 1978, section 490.12, subdivision 7.

History: 1979 c 296 s 6

490.11 RETIREMENT OF JUDGES OF PROBATE COURT.

When a probate judge shall become incapacitated physically or mentally from performing judicial duties during the remainder of a term of office and shall make a written application to the governor for retirement, setting forth the nature and extent of such disability, the governor shall make such investigation as deemed advisable and if the governor shall thereby determine that such disability exists, and that the public service is suffering and will continue to suffer by reason of such disability, the governor shall thereupon, by written order to be filed in the office of the secretary of state, direct the retirement of such judge for the unexpired portion of the term for which such judge was elected, which retirement shall create a vacancy in the office, which shall be filled by appointment, as provided by law.

History: (211-8) 1931 c 253 s 1; 1986 c 444

490.12 HALF PAY.

Subdivision 1. **Retirement under section 490.11.** When a probate judge shall be retired under the provisions of section 490.11, the judge shall receive the compensation allotted to the office for the remainder of the judge's term. Thereafter, if then past 65 years of age, having served as such judge, or as such judge and as judge of a court of record, or as such judge and a referee in probate, for 24 years, or more, the judge shall receive one-half of the compensation allotted to the office at the time of such retirement for life, to be paid at the time and in the manner provided by law.

Subd. 2. **Voluntary retirement.** When a probate judge has attained the age of 70 years or more and has served as such judge, or as such judge and as judge of a court of record, or as such judge and as referee in probate, for 20 years or more, or when a probate judge has attained the age of 65 years or more and has served as such judge or as such judge and as judge of a court of record or as such judge and as referee in probate for 24 years or more, the judge may voluntarily retire from office, and after retiring shall receive one-half of the compensation allotted to the office at the time of such retirement for life, to be paid at the time and in the manner provided by law for the payment of salaries of probate judges.

Subd. 3. **Service not continuous.** In computing the period of service of any probate judge for retirement purposes the judge shall receive credit for all periods of time served in the armed forces of the United States during any period when the United

States was at war and for any period served in the Minnesota national guard when the same had been mustered into federal service and was engaged in the Mexican border service between May 9, 1916, and March 24, 1917. Such period of service as a probate judge need not be continuous. The service of any judge in World War I and in the Mexican border service shall be deemed service hereunder, even though such service may have been prior to the commencement of any service as probate judge.

Subd. 4. **Limitations.** In no event shall the total retirement pension to a probate judge exceed the retirement pension provided by law for district judges of the county in which the probate judge held office.

Subd. 5. **Membership in other retirement pension funds.** The probate judges retirement pension as provided herein shall be reduced by the full amount of any retirement pension other than is herein provided received by a probate judge from the state, any political subdivision, or public employees retirement association, until the total reduction equals the amount of such other pension, if any, received prior to retirement as a probate judge plus the amount of the contribution, if any, made by the state or any political subdivision to fund any such other pension pursuant to section 353.27, subdivisions 3 and 3a, in connection with service as probate judge or in any other capacity. The amount of each reduction shall be remitted by the county to each such contributing employer in proportion to its total contribution pursuant to section 353.27, subdivisions 3 and 3a. In the event the probate judge withdraws from any retirement pension fund other than as herein provided prior to retirement as a probate judge, the amount contributed by the state or any political subdivision shall be computed and deducted from the probate judge's retirement over a five-year period commencing upon the date of such judge's retirement.

Subd. 6. **Extension of term of judge near retirement.** When the term of any judge of the probate court would expire three years or less from the time when the judge would become eligible to retire under the provisions of this section, upon written application by such judge to the governor stating an intention to retire upon eligibility, the governor shall forthwith make a written order accepting such retirement application, and extending the judge's term of office for three years or such proportion thereof as may be necessary for eligibility for such retirement.

Subd. 7. [Repealed, 1979 c 296 s 7]

Subd. 8. [Repealed, 1979 c 296 s 7]

Subd. 9. **Retirement coverage for certain probate court judges.** A probate judge who has served as a probate judge, or as a probate judge and a judge of a court of record or a referee in probate, and who is not elected, is not appointed or does not seek election as a county court judge, who serves in a county which has been combined with another county to form a county court district, and who has served for a period of at least ten years shall, upon retirement after attaining the age of 65 years, be entitled to receive a retirement allowance. The retirement allowance shall be equal to one-half of the compensation allotted to the office of the probate judge for the year 1970 if the retiring probate judge has credit for at least 24 years of service and that amount reduced by 1/24 of the amount for each year which the retiring probate judge has credit for less than 24 years of service if the retiring probate judge does not have credit for at least 24 years of service.

A probate judge who has attained the age of at least 65 years but less than 70 years at the expiration of the term of office of the judge, or who has attained the age of at least 70 years at or prior to the expiration of the term of office of the judge, and who has served for a period of at least ten years shall upon retirement be entitled to receive a retirement allowance. The retirement allowance shall be equal to one-half of the compensation allotted to the office of the probate judge for the year 1970 plus the salary increase granted pursuant to Extra Session Laws 1971, chapter 32, section 26, if the retiring probate judge has attained the age of at least 65 years but less than 70 years and has credit for at least 24 years of service or if the retiring probate judge has attained the age of at least 70 years and has credit for at least 20 years of service, and that amount reduced by 1/24 of the amount for each year of service less than 24 years of service if

the retiring probate judge has attained the age of at least 65 years but less than 70 years and does not have credit for at least 24 years of service or by 1/20 of the amount for each year of service less than 20 years of service if the retiring probate judge has attained the age of at least 70 years and does not have credit for at least 20 years of service.

The retirement allowance shall be payable for the life of the retired probate judge.

A probate judge to whom this subdivision is applicable may continue survivor benefit coverage for the spouse of the probate judge pursuant to section 490.1091 by making the survivor benefit contribution pursuant to section 490.109, based on the salary allotted to the office of the probate judge for the year 1970. The provisions of this section and section 490.11 shall apply to judges of county court and to probate judges who have become judicial officers and who have met the minimum eligibility requirements for coverage specified in those sections.

Any judge whose office is terminated pursuant to section 487.01, subdivision 7, shall be eligible for a retirement allowance pursuant to the provisions of this section.

History: (211-9) 1931 c 253 s 2; 1947 c 183 s 1; 1947 c 472 s 1; 1949 c 473 s 1; 1953 c 126 s 1,2; 1955 c 556 s 1; 1955 c 794 s 1,2; Ex1961 c 25 s 1; 1967 c 115 s 1; 1967 c 841 s 1; Ex1967 c 38 s 1-3; 1974 c 445 s 20; 1976 c 239 s 121; 1981 c 224 s 222; 1986 c 444

UNIFORM RETIREMENT AND SURVIVORS' ANNUITIES FOR JUDGES

490.121 DEFINITIONS.

Subdivision 1. For purposes of sections 490.121 to 490.132, terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. "Court" means any court of this state established by the Minnesota Constitution and any municipal, county or probate court of record, and shall include the conciliation court of the city of Duluth.

Subd. 3. "Judge" means a judge or justice of any court.

Subd. 4. "Allowable service" means a whole year, or any fraction thereof, served as a judge at any time, or served as a referee in probate for all referees in probate who were in office prior to January 1, 1974.

Subd. 5. "Judges' retirement fund", "retirement fund" or "fund" means that fund created by section 490.123.

Subd. 6. "Annuity" means the payments made each year to an annuitant from the judges' retirement fund, pursuant to the provisions of sections 490.121 to 490.132.

Subd. 7. "Annuitant" means a judge, surviving spouse or dependent child entitled to an annuity under the provisions of sections 490.121 to 490.132.

Subd. 8. "Normal retirement date" means the last day of the month in which a judge attains the age of 65.

Subd. 9. Except as otherwise provided by sections 490.121 to 490.132, "normal retirement annuity" means an annuity to which a judge is entitled under section 490.124, subdivision 1, upon retirement on or after normal retirement date.

Subd. 10. "Early retirement date" means the last day of any month after a judge attains the age of 62 until normal retirement date.

Subd. 11. "Early retirement annuity" means an annuity to which a judge is entitled under section 490.124, subdivisions 1 and 3 upon retirement at any early retirement date.

Subd. 12. "Mandatory retirement date" means the last day of the month in which a judge has attained 70 years of age.

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

Subd. 14. "Disability retirement date" means the last day of the first month after

which the governor determines, upon voluntary application by the judge or otherwise, that a judge suffers from a disability.

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

Subd. 16. "Surviving spouse" means the surviving husband or wife of a deceased judge.

Subd. 17. "Dependent 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 is a full time student throughout the normal school year, unmarried and actually dependent for more than one-half of the child's support upon such judge for a period of at least 90 days prior to the judge's death. It also includes any natural child of the judge born after the judge's death.

Subd. 18. "Survivor's annuity" means an annuity to which a surviving spouse or dependent child is entitled under section 490.124, subdivision 9.

Subd. 19. "Approved actuary" means any actuary who is either a fellow of the society of actuaries or who has at least 15 years of service to major public employee funds or any firm retaining such an actuary on its staff.

Subd. 20. "Actuarial equivalent" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

Subd. 21. "Final average compensation" means the total amount of salary payable to a judge in the highest five years of the last ten years prior to the event of maturity of benefits, divided by five; provided, however, that if the number of years of service is less than ten, the highest five shall be counted, and if the number of years is less than five, the aggregate salary in such period shall be divided by the number of months in such period and multiplied by 12.

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

490.122 ADMINISTRATION OF JUDGES' RETIREMENT.

The policymaking, management and administrative functions governing the operation of the judges' retirement fund and the administration of sections 490.025 to 490.132 shall be vested in the board of directors and executive director of the Minnesota state retirement system with such duties, authority and responsibility as are provided in chapter 352. Except as otherwise specified, no provision of chapter 352 shall apply to the judges' retirement fund or any judge.

History: 1973 c 744 s 2; 1981 c 224 s 227

490.123 JUDGES' RETIREMENT FUND.

Subdivision 1. **Creation; contributions.** There is hereby created a special fund known as the "judges' retirement fund". The fund shall be credited with all contributions, all interest and all other income authorized by law. From this fund there are appropriated the payments authorized by sections 490.121 to 490.132 in the amounts and at times provided herein, including the expenses of administering the fund. Each judge shall contribute to the fund from each salary payment a sum equal to one-half of one percent of salary, plus a sum equal to the salary multiplied by the rate of employee tax specified in the Federal Insurance Contributions Act as defined in section 355.01, subdivision 9, but in aggregate not less than seven percent of salary. The balance of all money necessary for administering sections 490.121 to 490.132 and the judges' retirement fund, including payment of retirement compensation and other benefits under sections 490.121 to 490.132, shall be contributed to the fund by the state.

Money certified by the executive director of the Minnesota state retirement system to the commissioner of finance as needed to meet the state's obligations to the judges' retirement fund shall be transferred to the fund at least once a month.

Subd. 2. Treasurer. The state treasurer shall be ex officio treasurer of the judges' retirement fund and the treasurer's general bond to the state shall be so conditioned as to cover all liability for acting as treasurer of this fund. All moneys received by the treasurer pursuant to this section shall be set aside in the state treasury to the credit of the judges' retirement fund. The treasurer shall transmit monthly to the executive director described in section 352.03, subdivision 5, a detailed statement of all amounts so received and credited to the fund. The treasurer shall pay out the fund only on warrants issued by the commissioner of finance, upon vouchers signed by said executive director; provided that vouchers for investment may be signed by the secretary of the state board of investment.

Subd. 3. Investment. The director referred to in subdivision 2 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. Assets from the judges' retirement fund shall be transferred to the Minnesota postretirement investment fund for retirement and disability benefits as provided in sections 11A.18 and 352.119. The state board of investment shall thereupon invest and reinvest sums so transferred, or certified, in such securities as are duly authorized legal investments for such purposes under section 11A.24.

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

490.124 MATURITY OF BENEFITS; RETIREMENT AND SURVIVORS' ANNUITIES.

Subdivision 1. Basic retirement annuity. Except as qualified hereinafter from and after mandatory retirement date, normal retirement date, early retirement date, or two years from the disability retirement date, as the case may be, a retirement annuity shall be payable to a retiring judge from the judges' retirement fund in an amount equal to: (1) 2-1/2 percent of the judge's final average compensation multiplied by the number of years and fractions of years of allowable service rendered prior to July 1, 1980; plus (2) three percent of the judge's final average compensation multiplied by the number of years and fractions of years of allowable service rendered after June 30, 1980; provided that the annuity shall not exceed 65 percent of the judge's annual salary for the 12 months immediately preceding retirement.

Subd. 2. Minimum service requirement; extension of term. No judge shall be eligible for an annuity at normal or early retirement date if the judge has less than ten years of allowable service. A judge who shall retire on or, as permitted under sections 490.121 to 490.132, after mandatory retirement date, shall be entitled to a proportionate annuity based upon the allowable service of the judge at date of retirement.

A judge who was in office on December 31, 1973 and thereafter and who, by the date on which the current term expires, would not be eligible to retire with full benefits under statutes in effect on December 31, 1973, may apply to the governor for an extension to serve up to three additional years, stating the intention of the judge to retire upon attaining eligibility to receive a retirement allowance. Notwithstanding section 490.125, the governor shall forthwith make a written order accepting the retirement application, and extending the term of office of the judge for the period of time, not to exceed three years, as may be necessary to make the judge eligible for retirement, solely for purposes of computing benefits hereunder.

Subd. 3. Early retirement. The retirement annuity provided by subdivision 1 of any judge electing to retire at an early retirement date shall be reduced by one-half of one percent per month from the retirement date to normal retirement date.

Subd. 4. Disability retirement. From and after disability retirement date, a disabled judge shall be 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 two full years, but in no event beyond the judge's mandatory retirement date. Thereafter a disability retirement annuity computed as provided in subdivision 1 shall be paid, provided that the judge shall receive a minimum annuity of 25 percent of the judge's final average compensation.

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

Subd. 6. **Part-time judges.** Notwithstanding other provisions of this section, except as provided herein, service by a judge who was not paid an annual salary or who served in a jurisdiction in which the judge was entitled to practice law while serving as a judge shall be credited only at one-half of the regular rate. Any period of part time uncredited judicial service may be credited service for the purposes of sections 490.121 to 490.132 only if:

(a) The judge or the judge's employer pays to the judges' retirement fund a sum equal to the rate of employee tax specified in the Federal Insurance Contributions Act during the period of part time service applied to one-half of the average salary earned during the period of part-time service, plus accrued interest thereon at the rate of five percent per year compounded annually from the period of service so credited to the date payment is made;

(b) The payment is made in not more than 36 monthly installments; and

(c) The judge shall elect to make the payment and shall commence doing so within 90 days after the commencement of the judge's first term in office.

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

Subd. 8. **Exclusive normal retirement benefits.** Any judge who retires after December 31, 1973, shall be entitled to a retirement pension, retirement compensation or other retirement payment under statutes applicable solely to judges pursuant to this section only, except that any such judge in office prior to 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 sections 490.121 to 490.132. For purposes of this subdivision, the conciliation court of the city of Duluth shall be deemed to have been a court of record by the statutes in effect on December 31, 1973.

Subd. 9. **Survivors' annuity.** Upon the death of a judge prior to retirement, or upon the death of a person who has qualified for an annuity but who ceases to be a judge prior to retirement and has not received a refund of contributions pursuant to subdivision 12, a surviving spouse or, if there be no surviving spouse, dependent children, shall receive an annuity, payable monthly, equal 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, provided that the surviving spouse or dependent children shall receive an annuity of not less than 25 percent of the judge's or former judge's final average compensation.

If a judge, whose surviving spouse was not entitled to survivors benefits provided solely for judges under statutes in effect prior to January 1, 1974, shall have died prior to retirement on or after May 23, 1973 and before January 1, 1974, a surviving spouse and dependent children, if any, shall be entitled to survivors benefits as provided hereunder as if such judge had died on January 1, 1974.

Subd. 10. **Prior survivors' benefits; limitation.** Benefits provided pursuant to section 490.102, subdivision 6, or 490.1091, for a surviving spouse of a retired judge, payable after the death of the judge, shall be limited to:

(a) Spouses of judges who have retired prior to January 1, 1974; and

(b) Spouses of judges in office on December 31, 1973 and thereafter who elect to continue contributions pursuant to section 490.102, subdivision 6 or 490.109. The contributions shall be in addition to contributions pursuant to section 490.123, and upon retirement the judge may not elect to receive any optional annuity pursuant to subdivision 11 unless the judge and the spouse shall waive any benefits pursuant to section 490.102, subdivision 6 or 490.1091.

No other judge in office on or after January 1, 1974, shall be required to contribute pursuant to section 490.102, subdivision 6 or 490.109.

Subd. 11. **Optional annuities.** There shall be no survivor or death benefits in connection with the death of a judge who retires after December 31, 1973, except as otherwise provided herein. Within 30 days prior to such retirement, except as provided in subdivision 10, a judge may elect to receive, in lieu of the normal retirement annuity, optional annuities which shall take the form of an annuity payable for a period certain and for life thereafter or a joint and survivor annuity. Such optional annuities shall be actuarially equivalent to an annuity for life, with no term certain, and shall be established by the governing body of the Minnesota state retirement system upon the recommendation of an approved actuary.

Subd. 12. **Refund.** Any person who ceases to be a judge but who does not qualify for a retirement annuity or other benefit under section 490.121 shall be entitled to a refund in an amount equal to all the person's contributions to the judges' retirement fund plus interest computed to the first day of the month in which the refund is processed based on fiscal year balances at the rate of five percent per annum compounded annually.

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

490.125 MANDATORY RETIREMENT.

Subdivision 1. Except as otherwise provided in sections 490.121 to 490.132, each judge shall retire on the judge's mandatory retirement date.

Subd. 2. Except as provided by sections 490.025, subdivision 3, 490.102, subdivisions 3 and 3a and 490.12, subdivision 2, 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 subds 1,2; 1986 c 444

490.126 PROCEDURES.

Subdivision 1. **Compulsory retirement.** Proceedings for compulsory retirement of a judge, if necessary, shall be conducted in accordance with rules issued by the supreme court pursuant to section 490.16.

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, shall effect a vacancy in the office to be filled as provided by law.

Subd. 3. **Application for annuity or refund.** Application for an annuity or refund under sections 490.121 to 490.132 may be made by the annuitant or by someone authorized to act for the annuitant. Every application for an annuity or refund, with proof of age and years of service when required, shall be submitted to the governing body of the Minnesota state retirement system in a form prescribed by it.

Subd. 4. **Manner of payment.** Unless otherwise specifically provided by statute or agreed upon by the annuitant and the governing body of the state retirement system, annuities payable under sections 490.121 to 490.132 shall be paid in the manner and at the intervals as prescribed by the executive director of the state retirement system. The annuity shall cease with the last payment received by the annuitant while living.

History: 1973 c 744 s 6; 1981 c 224 s 233; 1986 c 444

490.127 [Repealed, 1981 c 224 s 276]

490.128 [Repealed, 1981 c 224 s 276]

490.129 BENEFITS OFFSET.

Upon any event of maturity of benefits for any judge referred to in section 355.392, subdivision 1, clause (b), the amount payable from the judges' retirement fund shall be

reduced by 75 percent of the amount of the judge's primary benefit payable upon the event of maturity of benefits under the Social Security Act.

Upon any event of maturity of benefits for the judge's surviving spouse or dependent children under section 490.124, subdivision 9, the amount payable from the judges' retirement fund shall be based (a) on the judge's normal retirement annuity or (b) upon the event of maturity of benefits under the Social Security Act, on the judge's normal retirement annuity after reduction by 75 percent of the amount of the judge's primary benefit under the Social Security Act; provided that the surviving spouse or dependent children shall receive an annuity of not less than 25 percent of the judge's final average compensation.

History: 1973 c 744 s 9; 1981 c 224 s 234; 1984 c 574 s 17

490.13 [Repealed, 1981 c 224 s 276]

490.131 [Repealed, 1978 c 563 s 31]

490.132 COVERAGE FOR CERTAIN SUPREME COURT JUSTICES.

A judge of the supreme court who holds office on or prior to January 1, 1974, shall be covered by the applicable provisions of sections 490.025 to 490.106, shall continue to receive all the benefits thereunder and shall not be covered by the provisions of sections 490.121 to 490.132 unless the judge had elected, in writing, to be covered by the provisions of sections 490.121 to 490.132 by notifying the director of the state retirement system by January 1, 1974.

History: 1973 c 744 s 12; 1981 c 224 s 235

490.133 RETIREMENT; TRANSITION PROVISIONS; TRANSFER TO COURT OF APPEALS.

If a judge to whom or to whose survivors benefits would be payable under sections 490.101 to 490.12, is elected or appointed to the court of appeals, that judge and the judge's survivors, shall continue to be eligible for benefits under those sections and not under sections 490.121 to 490.132. In that case, the service of the judge in the court of appeals shall be added to the 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 shall be the "compensation allotted to the office" for the purposes of calculating benefit amounts. All other judges of the court of appeals and their survivors shall be subject to the retirement and survivor's annuity provisions of sections 490.121 to 490.132.

History: 1982 c 501 s 24

BOARD ON JUDICIAL STANDARDS

490.15 ESTABLISHMENT; COMPOSITION.

Subdivision 1. The board on judicial standards is established and consists of one judge of the court of appeals, one judge of the district court, one judge of a municipal court, one judge of county court, two lawyers who have practiced law in the state for ten years and four citizens who are not judges, retired judges or lawyers. The executive secretary is appointed by the governor. Commencing July 1, 1980, the board shall appoint the executive secretary. All members shall be appointed by the governor with the advice and consent of the senate except that senate confirmation shall not be required for the judicial members. No member shall serve more than two full four-year terms or their equivalent. Membership terminates if a member ceases to hold the position that qualified the member for appointment.

Subd. 2. The membership terms, compensation, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575.

History: 1971 c 909 s 1; 1973 c 214 s 2; 1974 c 514 s 1; 1975 c 271 s 6; 1976 c 134 s 75; 1977 c 455 s 87; 1978 c 713 s 1; 1983 c 305 s 27; 1984 c 379 s 3; 1986 c 444

490.16 POWERS.

Subdivision 1. A judge is disqualified from acting as a judge, without loss of salary, while there is pending an indictment or any information charging the judge with a crime punishable as a felony under Minnesota or federal law, or a recommendation to the supreme court by the board on judicial standards for the judge's removal or retirement.

Subd. 2. On recommendation of the board on judicial standards or on its own motion, the supreme court may suspend a judge from office without salary when the judge pleads guilty or no contest or is found guilty of a crime punishable as a felony under Minnesota or federal law or any other crime that involves moral turpitude. If the conviction is reversed, suspension terminates and the judge shall be paid a salary for the period of suspension. If the judge is suspended and the conviction becomes final, the supreme court shall remove the judge from office.

Subd. 3. On recommendation of the board on judicial standards, the supreme court may retire a judge for disability that seriously interferes with the performance of duties and is or is likely to become permanent, and censure or remove a judge for action or inaction that may constitute persistent failure to perform duties, incompetence in performing duties, habitual intemperance or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

The board is specifically empowered to reopen any matter wherein any information or evidence was previously precluded by a statute of limitations or by a previously existing provision of time limitation.

Subd. 4. A judge retired by the supreme court shall be considered to have retired voluntarily. A judge removed by the supreme court is ineligible for judicial office and the question of the removed judge's right to practice law in this state shall be referred to the proper authority for review.

Subd. 5. The supreme court shall make rules to implement this section.

Subd. 6. This section and section 490.15, shall not affect the right of a judge who is suspended, retired or removed hereunder from qualifying for any pension or other retirement benefits to which the judge would otherwise be entitled by law.

History: 1971 c 909 s 2; 1975 c 271 s 6; 1976 c 239 s 122; 1978 c 475 s 1; 1978 c 713 s 2; 1986 c 444

490.17 [Repealed, 1973 c 214 s 3]

490.18 PERSONS AFFECTED.

The provisions of sections 490.15 and 490.16 apply to all judges, judicial officers, and referees.

History: 1973 c 214 s 1; 1983 c 359 s 72