WEST VIRGINIA CODE: §51-9-1A

§51-9-1a. Definitions.

(a) Notwithstanding any other provision of this code to the contrary, as used in this article, the term "judge", "judge of any court of record", or "judge of any court of record of this state" means, refers to, and includes judges of the several family courts, circuit courts, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals.

(b) "Actuarially equivalent" or "of equal actuarial value" means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of section 415 of the Internal Revenue Code, "actuarially equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

(c) "Beneficiary" means any person, except a member, who is entitled to an annuity or other benefit payable by the retirement system.

(d) "Board" means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq*. of this code.

(e) "Bona fide separation from service upon retirement" means that a retirant has completely terminated any employment relationship with the Supreme Court for a period of at least 60 consecutive days from the effective date of retirement and without a prearranged agreement to return to employment with the Supreme Court. For purposes of this definition, an employment relationship includes employment in any capacity, whether on a permanent, full-time, part-time, substitute, per diem, temporary or leased employee basis.

(f) "Employer error" means an omission, misrepresentation or deliberate act in violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Rules or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Rules by the participating public employer that has resulted in an underpayment or overpayment of contributions required.

(g) "Final average salary" means the average of the highest 36 consecutive months' compensation received by the member as a judge of any court of record of this state.

(h) "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended.

(i) "Member" means a judge participating in this system.

(j) "Plan year" means the 12-month period commencing on July 1 of any designated year and ending the following June 30.

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(k) "Required beginning date" means April 1 of the calendar year following the later of: (1) The calendar year in which the member attains the applicable age as set forth in this paragraph; or

(2) The calendar year in which he or she retires or otherwise separates from covered employment.

The applicable age is:

(A) Seventy-two, if the individual attains age 72 prior to January 1, 2023;

(B) Seventy-three, if the individual attains age 72 after December 31, 2022, and attains age 73 before January 1, 2033; or

(C) Seventy-five, if the individual attains age 74 after December 31, 2032; provided that the applicable age shall be determined in accordance with the provisions of §401(a)(9) of the Internal Revenue Code and the Treasury Regulations thereunder, as the same may be amended from time to time.

(l) "Retirant" means any member who commences an annuity payable by the plan.

(m) "Retirement system" or "system" means the Judges' Retirement System created and established by this article. Notwithstanding any other provision of law to the contrary, the provisions of this article are applicable only to family court judges, circuit judges, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals in the manner specified in this article.

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