IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.02.01 - RULES FOR THE JUDGES' RETIREMENT FUND

DOCKET NO. 59-0201-1501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 21, 2015.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 1-2012, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules apply to the Judges' Retirement Fund (JRF). The changes are proposed in anticipation of seeking for the JRF a determination letter of qualified status from the IRS. They are also designed to amend the rules in certain areas so that the language tracks the language in the rules for the PERSI Base Plan. That tracking will make for easier and consistent administration and may also lessen the need for future revisions.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c) Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To ensure the rules meet federal requirements, thereby lessening risk to qualified status (which benefits all members and beneficiaries and employers).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations and because several of the changes are required by federal law for qualified plan status.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfoy, (208) 287-9271.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 21st Day of July, 2015.

Don Drum, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702

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THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 59-0201-1501
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS (RULE 10).
The following definitions shall apply to this chapter: (7-1-14)

01. Accrued Benefit. The actuarial value of the retirement benefit to which the Member is entitled under the Judges' Retirement Fund upon attainment of Normal Retirement Age. (7-1-14)

02. Active Member. Each justice or judge who participates in the Judges' Retirement Fund as provided by Idaho Code. (7-1-14)

03. Administrator. The Board. (7-1-14)

04. Annual Additions. Annual additions are the total of all after-tax Member contributions in a year (not including rollovers) and forfeitures allocated to a Member's account under the Judges' Retirement Fund and all other qualified plans to which contributions are made based on the Member's service with the Employer. (7-1-14)

05. Beneficiary. The designated person (or, if none, the Member's estate) who is entitled to receive benefits under the Plan after the death of a Member. (7-1-14)

06. Board. The retirement board established in Section 59-1304, Idaho Code. (7-1-14)

07. Code. The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered. (7-1-14)

08. Compensation. All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Member's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Member's gross income for the calendar year but for a compensation reduction election under sections 125, 132(f), 401(k), 403(b), or 457(b) of the Code. (7-1-14)

09. Contingent Annuitant. The person designated by a Member under certain retirement options to receive payments upon the death of the Member. The person so designated must be born and living on the effective date of retirement. (7-1-14)

10. Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the Code and section 1.40l(a)(9)-4, Q&A-4, of the Treasury regulations. (7-1-14)

11. ~~***Distribution Calendar Year***. *A calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Rule 100 of these rules.*~~ **Differential Wage Payments**. Differential Wage Payments as defined in 26 U.S.C. 3401(h). A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.
~~*(7-1-14)*~~(7-21-15)T

12. Employer. The common law employer of a Member. (7-1-14)

~~**13. Includible Compensation**. A Member's actual wages in box one (1) of Form W-2 for a year for services to the Employer, but subject to a maximum of two hundred thousand dollars ($200,000) (or the maximum as may apply under section 401(a)(17) of the Code, if different) and increased (up to the dollar maximum) by any compensation reduction election under sections 125, 132(t), 401(k), 403(b), or 457(b) of the Code. (7-1-14)~~

1~~4~~3. **Judges' Retirement Fund**. The Judges' Retirement Fund established under Title 1, Chapter 20, Idaho Code, and rules applicable to the Judges' Retirement Fund. The Judges' Retirement Fund is intended to satisfy Code section 401(a) as applicable to governmental plans described in Code section 414(d). It is maintained for the exclusive benefit of Members and their beneficiaries. (7-1-14)

~~**15. Life Expectancy**. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations. (7-1-14)~~

1~~6~~4. **Member**. An individual who is currently accruing benefits or who has previously accrued benefits under the Plan and who has not received a distribution of his entire benefit under the Plan. (7-1-14)

1~~7~~5. **Normal Retirement Age**. The age (or combination of age and years of service) at which a Member is entitled to an actuarially unreduced retirement benefit under the Plan. A Member will be fully vested upon attainment of Normal Retirement Age. (7-1-14)

1~~8~~6. **Plan**. The plan of benefits under the Judges' Retirement Fund. (7-1-14)

1~~9~~7. **Required Beginning Date**. The date specified in Rule 100 of these rules. (7-1-14)

~~20~~18. **Severance from Employment**. The date that the Member dies, retires, or otherwise has a separation from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code). (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

100. ~~TIME AND MANNER OF~~ REQUIRED MINIMUM DISTRIBUTIONS (RULE 100).

~~**01. Required Beginning Date**. The Member's entire interest will be distributed, or begin to be distributed to the Member no later than the Member's Required Beginning Date. (7-1-14)~~

~~**02. Death of Member Before Distributions Begin**. If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows: (7-1-14)~~

~~**a.** Surviving Spouse is Sole Designated Beneficiary. If the Member's surviving spouse is the Member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age seventy and one-half (70½), if later. (7-1-14)~~

~~**b.** Surviving Spouse is Not Sole Designated Beneficiary. If the Member's surviving spouse is not the Member's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died. (7-1-14)~~

~~**c.** No Designated Beneficiary. If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death. (7-1-14)~~

~~**d.** Surviving Spouse Dies Before Distribution. If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this Rule 100, other than Rule 100.02.a., will apply as if the surviving spouse were the Member. For purposes of this Subsection 100.02, distributions are considered to begin on the Member's Required Beginning Date~~

~~(or, if the preceding sentence applies, the date distributions are required to begin to the surviving spouse under this section). If annuity payments irrevocably commence to the Member before the Member's Required Beginning Date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under this section), the date distributions are considered to begin is the date distributions actually commence. (7-1-14)~~

~~**e.** Form of Distribution. Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with this Rule 100. If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts. (7-1-14)~~

~~**03. Determination of Amount to be Distributed Each Year. (7-1-14)**~~

~~**a.** General Annuity Requirements. If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements: (7-1-14)~~

~~i. The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year; (7-1-14)~~

~~ii. The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Rule 101 or Rule 103 of these rules; (7-1-14)~~

~~iii. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted; (7-1-14)~~

~~iv. Payments will either be nonincreasing or increase only as follows: (7-1-14)~~

~~(1) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics; (7-1-14)~~

~~(2) To the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the Member's beneficiary pursuant to an approved domestic relations order within the meaning of section 414(p) of the Code; (7-1-14)~~

~~(3) To provide cash refunds of employee contributions upon the Member's death; or (7-1-14)~~

~~(4) To pay increased benefits that result from a Plan amendment. (7-1-14)~~

~~**b.** Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Member's Required Beginning Date (or, if the Member dies before distributions begin, the date distributions are required to begin under Rule 100.02 of these rules) is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date. (7-1-14)~~

~~**c.** Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues. (7-1-14)~~

~~**04. Requirements for Annuity Distributions that Commence During Member's Lifetime. (7-1-14)**~~

~~**a.** *Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the designated beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.* (7-1-14)~~

~~**b.** *Period Certain Annuities. Unless the Member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in section 1.401 (a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Member reaches age seventy (70), the applicable distribution period for the Member is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of seventy (70) over the age of the Member as of the Member's birthday in the year that contains the annuity starting date. If the Member's spouse is the Member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this section, or the joint life and last survivor expectancy of the Member and the Member's spouse as determined under the Joint And Last Survivor Table set forth in section 1.401 (a)(9)-9 of the Treasury regulations, using the Member's and spouse's attained ages as of the Member's and spouse's birthdays in the calendar year that contains the annuity starting date.* (7-1-14)~~

~~**05. Requirements for Minimum Distributions Where Member Dies Before Date Distributions Begin.** (7-1-14)~~

~~**a.** *Member Survived by Designated Beneficiary. If the Member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in this section, over the life of the designated beneficiary or over a period certain not exceeding:* (7-1-14)~~

~~*i. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or* (7-1-14)~~

~~*ii. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.* (7-1-14)~~

~~**b.** *No Designated Beneficiary. If the Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest (to the estate of the Member in accordance with the applicable laws of distribution and descent) will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.* (7-1-14)~~

~~**c.** *Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Member dies before the date distribution of his interest begins, the Member's surviving spouse is the Member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section will apply as if the surviving spouse were the Member, except that the time by which distributions must begin will be determined without regard to this section.* (7-1-14)~~

~~**d.** *Incidental Death Benefit. The foregoing limitations are designed to assure that any death benefits are paid in a form that complies with the incidental death benefit requirements of section 401(a)(9)(G) of the Code.* (7-1-14)~~

01. Default Application of Federal Requirements. With respect to distributions under the Judges' Retirement Fund, and except as provided in Subsection 100.06, the Judges' Retirement Fund will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code (Code) in accordance with a good faith interpretation of section 401(a)(9), notwithstanding any provision of the Judges' Retirement Fund to the contrary. (7-21-15)T

02. Required Beginning Date. Except as otherwise provided in Subsections 100.03 through 100.06, distributions under the Judges' Retirement Fund shall begin not later than April 1 following the later of: (7-21-15)T

a. The calendar year (hereinafter referred to as the "Commencement Year") in which the member reaches age seventy and one half (70 ½); and (7-21-15)T

b. The year in which he retires. (7-21-15)T

03. Lifetime Distributions. Distribution shall be made over the life of the Member or the lives of the Member and his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary. (7-21-15)T

04. Timing of Required Distributions. A required distribution shall be deemed to have been made during the Commencement Year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the Commencement Year. (7-21-15)T

05. Adjustment of Required Distributions. Benefits paid prior to the Commencement Year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein. (7-21-15)T

06. Annuity Benefits Payable on Death of a Member. All death benefits payable in the form of an annuity will begin to be paid as soon as administratively practicable after the member's death, but must in any event begin to be paid before the end of the calendar year following the calendar year in which the member died. (7-21-15)T

07. Death Benefits. All death benefits payable in a lump sum will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. (7-21-15)T

101. MAXIMUM LIMITATIONS ON BENEFITS (RULE 101).

~~***01. Maximum Employer-Derived Annual Retirement***. *Effective January 1, 2002, the employer-derived annual retirement pension payable under the Judges' Retirement Fund shall not exceed one hundred sixty thousand dollars ($160,000). However, if the Member has not completed ten (10) years of participation, such maximum amount shall be reduced to an amount equal to such maximum amount multiplied by the ratio which the number of years of his participation bears to ten (10). In no event shall the preceding sentence reduce the limitation set forth in the first sentence of this Subsection 101.01 to an amount less than one tenth (1/10) of such limitation (determined without regard to the preceding sentence). If the pension begins before the Member's sixty-second birthday, the maximum amount shall be the actuarial equivalent of one hundred sixty thousand dollars ($160,000) beginning at age sixty-two (62). For purposes of the preceding sentence, the actuarial equivalent value shall be based on an interest rate equal to the greater of five percent (5%) per year or the interest rate otherwise used under the Plan in the determination of actuarial equivalent value. If the pension begins after the Member's sixty fifth birthday, the maximum amount shall be the actuarial equivalent value based on an interest rate equal to the lesser of five percent (5%) per year or the interest rate otherwise used under the Plan in the determination of actuarial equivalent value, to that maximum benefit payable at age sixty five (65).*~~ ~~*(7-1-14)*~~

~~***a.*** *The preceding paragraph shall not apply to benefits payable as the result of the recipient becoming disabled by reason of personal injuries or sickness, or benefits payable to a beneficiary, survivors, or the estate of a Member as the result of the death of the Member. This section and Rule 102 of these rules are intended to reflect the*~~

~~*limitations of Internal Revenue Code section 415, to the extent applicable to governmental plans.* (7-1-14)~~

~~***b.*** *As of January 1 of each calendar year on and after January 1, 2002, the dollar limitation in Subsection 101.01 above, with respect to both active and retired Members, shall be adjusted for increases in the cost of living, taking into consideration applicable guidelines.* (7-1-14)~~

~~***c.*** *For limitation years beginning on or after July 1, 2007, the Plan will make any required adjustments to the dollar limitation in accordance with the final 415 regulations published on April 5, 2007.* (7-1-14)~~

~~***02.*** ***Employer-Derived Annual Retirement Defined****. The employer-derived annual retirement pension is the excess, if any, of the total annual retirement pension over the Member-derived annual retirement pension.* (7-1-14)~~

~~***03.*** ***Member-Derived Annual Retirement****. The Member-derived annual retirement pension shall be the actuarial equivalent of the Member's contribution under Appendix A. The rate of interest to be used in calculating actuarial equivalence for Plan Years beginning on or before December 31, 2007 shall be Thirty (30) Year Treasury Securities Rate for the month before the date of distribution. For plan years beginning on or after January 1, 2008, the rate of interest to be used in calculating actuarial equivalence shall be the adjusted first, second, and third segment rates applied under rules similar to the rules of Code section 430(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary may by regulations prescribe (the "post PPA '06 applicable interest rate"). For this purpose, the adjusted first, second, and third segment rates are determined without regard to the twenty-four (24)-month averaging provided under Code section 430(h)(2)(D)(i), and Code section 417(e)(3)(D)(ii) provides a transition rule that phases in the use of the segment rates over five (5) years. The mortality rate to be used for plan years beginning on or before December 31, 2007 shall be based on the prevailing commissioners' standard table used to determine reserves for group annuity contracts issued on the date as of which present value is being determined. For plan years beginning on or after January 1, 2008, the mortality rate shall be based on a mortality table, modified as appropriate by the Secretary of the Treasury, based on the mortality table specified for the plan year under subparagraph (A) of Code section 430(h)(3) (without regard to subparagraph (C) or (D) of such section) (the "post PPA '06 applicable mortality table").* (7-1-14)~~

~~***04.*** ***Benefits Accrued as of December 31, 1982****. Notwithstanding the preceding paragraph of this Section 101, in no event shall a Member's annual pension payable under the Plan be less than the benefit which the Member had accrued under the Plan as of December 31, 1982; provided, however, that in determining such benefit no changes in the Plan on or after July 1, 1982 shall be taken into account.* (7-1-14)~~

Beginning effective January 1, 2002, the "defined benefit dollar limitation" is one hundred sixty thousand dollars ($160,000), as adjusted, effective January 1 of each year thereafter, under section 415(d) of the Internal Revenue Code (Code) in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies. The "maximum permissible benefit" is the defined benefit dollar limitation (adjusted where required, as provided in Subsection 101.01 and, if applicable, in Subsections 101.02 through 101.04). (7-21-15)T

01. **Less Than Ten Years of Service**. If the Member has fewer than ten (10) years of participation in the Judges' Retirement Fund, the defined benefit dollar limitation shall be multiplied by a fraction: (7-21-15)T

a. The numerator of which is the number of years (or part thereof) of participation in the Judges' Retirement Fund; and (7-21-15)T

b. The denominator of which is ten (10). (7-21-15)T

02. **Benefit Begins Prior to Age Sixty-Two**. If the benefit of a Member begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the Member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the Member at age sixty-two (62) (adjusted under Rule 101.01, if required). The defined benefit dollar limitation applicable at an age prior to age sixty-two (62) is determined as set forth in IRS regulation under section 415(b)(2) of the Code. (7-21-15)T

03. Benefit Begins at Age Sixty-Five. If the benefit of a Member begins after the Member attains age sixty-five (65), the defined benefit dollar limitation applicable to the Member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Member at age sixty-five (65) (adjusted under Rule 101.01, if required.) The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as set forth in IRS regulation under section 415(b)(2) of the Code. (7-21-15)T

04. Transition. Benefit increases resulting from the increase in the limitations of section 415(b) of the Code shall be provided to all current and former Members (with benefits limited by section 415(b)) who have an accrued benefit under the Judges' Retirement Fund immediately prior to the effective date of this Rule (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b).) (7-21-15)T

(BREAK IN CONTINUITY OF SECTIONS)

103. ROLLOVER DISTRIBUTIONS (RULE 103).

01. Direct Rollovers. A Member of the Judges' Retirement Fund or a beneficiary of a Member (including a Member's former spouse who is the alternate payee under an approved domestic relations order) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover. Effective January 1, 2006, in the event of a mandatory distribution greater than one thousand dollars ($1,000), if the Member does not elect to have such distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover or to receive the distribution directly, then the plan administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator. (7-1-14)

02. Eligible Rollover Distribution Defined. For purposes of this Rule, an eligible rollover distribution means any distribution of all or any portion of a Member's account balance, except that an eligible rollover distribution does not include (a) any installment payment for a period of ten (10) years or more, (b) any distribution made as a result of an unforeseeable emergency, or (c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 40l(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution. Effective January 1, 2008, an eligible retirement plan shall also mean a Roth IRA described in section 408A of the Code. (7-1-14)

03. After-Tax Contributions. For purposes of the direct rollover provisions in Rule 103.01, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. (7-21-15)T

04. Alternate Payees. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Rule 402 are distributees with regard to the interest of the spouse or former spouse. (7-21-15)T

05. Transfers to Non-Spouse Beneficiaries. This Rule 103.05 applies to distributions made on or after July 1, 2008. Notwithstanding any provision of the Judges' Retirement Fund to the contrary that would otherwise limit the options of the Beneficiary of a deceased Member who is not the Member's spouse, the administrator shall, upon the request of such a Beneficiary transfer a lump sum distribution to the trustee of an individual retirement

account established under Section 408 of the Code in accordance with the provisions of Code section 402(e)(11). (7-21-15)T

(BREAK IN CONTINUITY OF SECTIONS)

406. EXCLUSIVE PURPOSE (RULE 406).
The Board shall hold the assets of the Judges' Retirement Fund in trust for the exclusive purpose of providing benefits to Members and Beneficiaries and paying reasonable expenses of administration. It shall be impossible by operation of the Judges' Retirement Fund, by termination, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by other means, for any part of the corpus or income of the Judges' Retirement Fund, or any funds contributed thereto, to inure to the benefit of any Employer or otherwise be used for or diverted to purposes other than providing benefits to Members and Beneficiaries and defraying reasonable expenses of administering the Judges' Retirement Fund. (7-21-15)T

407. BENEFITS DURING MILITARY SERVICES (RULE 407).

01. Death Benefits. (7-21-15)T

a. This subsection 407.01 applies to a member of the Judges' Retirement Fund who dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. (7-21-15)T

b. The period of military service that results in the member's death will be counted in the determination of whether the member qualifies for the death benefit described in section 2009-1(b) to the extent required by Code Section 401(a)(37). (7-21-15)T

02. Determination of Return to Employment for Benefit Accrual Purposes. (7-21-15)T

a. This subsection 407.02 applies to a member of the Judges' Retirement Fund who becomes disabled or dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. (7-21-15)T

b. For benefit accrual purposes, a member of the Judges' Retirement Fund shall be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability to the extent permitted by Code Section 414(u)(8). (7-21-15)T

03. Differential Wage Payments. (7-21-15)T

a. This subsection 407.02 applies to a member of the Judges' Retirement Fund who, on or after January 1, 2009, receives differential wage payments from his or her Employer while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. (7-21-15)T

b. A member of the Judges' Retirement Fund shall be treated as employed by the Employer while performing qualified military service to the extent required by Code Section 3401(h). (7-21-15)T

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