



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

GOVERNMENT CODE - GOV

TITLE 8. THE ORGANIZATION AND GOVERNMENT OF COURTS [68070 - 77655] (Title 8 added by Stats. 1953, Ch. 206.)

CHAPTER 11. Judges' Retirement Law [75000 - 75111] (Chapter 11 added by Stats. 1953, Ch. 206.)

ARTICLE 3.6. Benefits Payable [75075 - 75079.5] (Article 3.6 added by Stats. 1959, Ch. 1363.)

75075. Any judge hereafter retiring pursuant to Section 75025 or 75060 may elect to receive the benefits accorded by this article if he or she retires for service or disability.

Every judge who qualifies under this section shall be deemed to elect to receive the benefits accorded by this article, unless he or she makes an election to the contrary by filing written notice thereof with the Judges' Retirement System at or prior to retirement.

Any judge whose service would qualify him or her for any benefits under this article if the total of the service included an additional 60 days, shall be deemed to have credited to him or her, sufficient service to qualify for the benefit.

(Amended by Stats. 1998, Ch. 212, Sec. 2. Effective January 1, 1999.)

75075.01. (a) Notwithstanding any other provision of this part, the benefits payable to any person who for the first time becomes a member on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code.

(b) Notwithstanding any other law, the benefits payable to any person who became a member prior to January 1, 1990, shall be subject to the greater of the following limitations as provided in Section 415(b)(10) of the Internal Revenue Code:

(1) The limitations set forth in Section 415 of the Internal Revenue Code.

(2) The accrued benefit of a member under this system (determined without regard to any amendment to the system made after October 14, 1987).

(Added by Stats. 1989, Ch. 1305, Sec. 4. Effective October 2, 1989.)

75075.02. The benefits payable to any person who first becomes a member of this system on or after July 1, 1996, shall not exceed the limitations in Section 401(a) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for that calendar year. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the applicable annual compensation limit.

(Added by Stats. 1995, Ch. 829, Sec. 14. Effective January 1, 1996.)

75075.03. (a) The cost-of-living adjustments under Section 415(d) of the Internal Revenue Code to the limits described in Section 415(b) of the Internal Revenue Code, as prescribed by the regulations of the Department of the Treasury of the United States, are hereby incorporated by reference and shall continue to apply after a judge's severance from employment or annuity starting date. The amount payable to a judge in any limitation year, including cost-of-living adjustments provided under this chapter, shall not exceed the limit applicable under Section 415(b) of the Internal Revenue Code at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and the associated regulations.

(b) Notwithstanding any other law, and except as provided in subdivision (a), the retirement allowance of a judge shall be increased to reflect cost-of-living adjustments to the limits contained in Section 415 of Title 26 of the United States Code as provided in Section 415(d) of that code, provided that the judge's allowance determined without regard to Section 415 equals or exceeds the applicable limit as indexed. Nothing in this section is intended to, nor shall be construed to, entitle a retired judge to an adjustment to their allowance in excess of that provided pursuant to this chapter.

(c) Nothing in this section shall change the formula used to calculate benefits under this chapter.

(Added by Stats. 2021, Ch. 304, Sec. 2. (AB 1293) Effective January 1, 2022.)

75076. (a) A judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by this article shall receive a retirement allowance equal to 65 percent of the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last elected or appointed; except that if upon retirement a judge has received credit for 20 or more years of service rendered prior to the expiration of the time within which the judge is eligible to elect to receive the benefits accorded by this article and for which he or she has contributed to the Judges' Retirement Fund his or her retirement allowance shall equal 75 percent of that salary.

(b) Any judge retiring after July 7, 1960, who has or shall become entitled to credit for service as a judge of a court of record prior to the inclusion of the judges of those courts, or of all of those courts, under the Judges' Retirement Law, or as a "judge of an excluded court" as defined by Section 75029, or as a "constitutional officer" or "public legal officer" as defined by Section 75030.5, without having contributed therefor to the Judges' Retirement Fund, may at any time prior to retirement contribute for all or any part of that service by paying into the fund a sum of money computed by applying to the rate of salary which he or she actually received during his or her first year of service as a judge the rate of deduction first applicable to his or her salary as a judge after the inclusion of the judges of his or her court under the Judges' Retirement Law, multiplied by the period of service for which contributions are elected to be made, plus interest at 3 percent a year to the date of his or her payment upon the amounts of the deductions and from the respective dates they would have been made if he or she had been the holder of a judicial office subject to the provisions of the Judges' Retirement Law at the time of the rendition of the services for which he or she has received or hereafter receives that credit. The amount of any contribution authorized by this subdivision and interest thereon shall be determined by the Judges' Retirement System in accordance with this subdivision.

(c) If the judge retires pursuant to Section 75025, the allowance is payable during the remainder of his or her life; if pursuant to Section 75060, it is payable as provided in Section 75060.6.

(Amended by Stats. 1998, Ch. 212, Sec. 3. Effective January 1, 1999.)

75076.1. If a community property benefit has been awarded to a judge's ex-spouse pursuant to Article 2.5 (commencing with Section 75050), the percent of the salary payable to the judge who retires under Section 75025 or 75060 shall be computed at the rate of 65 percent of the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last elected or appointed, less the percentage awarded to the ex-spouse, or 75 percent of the salary payable less the percentage of the amount awarded to the ex-spouse if the judge has served at least 20 years of service at the time of his or her retirement. In no instance, regardless of the total number of years of judicial service, shall the retirement allowance percentage awarded the judge when combined with the percentage awarded the ex-spouse exceed the maximum amount allowable under the pertinent section under which the judge retired.

(Added by Stats. 1989, Ch. 1379, Sec. 3. Applicable from June 1, 1988, by Sec. 7 of Ch. 1379.)

75076.2. A judge who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance. The reduction shall be based upon the relationship between the actual service rendered by the judge, including service rendered by reason of sitting on assignment, and a full-time judge's service during the period from January 1, 1990, until the date of retirement. Computations under this section and subdivision (a) of Section 75076 shall consider the salary payable to the judge of a municipal or justice court to be equal to 91.3225 percent of the salary of a superior court judge. For purposes of qualifying for retirement, part-time service shall be the equivalent of full-time service.

(Amended by Stats. 2002, Ch. 784, Sec. 498. Effective January 1, 2003.)

75076.5. Notwithstanding any other provision of law, in no event shall an allowance payable pursuant to this chapter to a retired member on the effective date of a reduction in judges' salaries ever be reduced to an amount less than the amount produced by multiplying the amount of the highest salary the retired member was paid while serving as a judge by the following percentages:

- (a) For an allowance computed pursuant to Section 75032, 50 percent.
- (b) For an allowance computed pursuant to the first clause of subdivision (a) of Section 75076, 65 percent.
- (c) For an allowance computed pursuant to the second clause of subdivision (a) of Section 75076, 75 percent.
- (d) For an allowance computed pursuant to Section 75033 or 75033.5, the percentage used to calculate the original retirement allowance pursuant to Section 75033 or 75033.5.

(Amended by Stats. 1988, Ch. 992, Sec. 8.)

75077. The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by this article and who dies during retirement shall receive, until death, an allowance equal to one-half of the retirement allowance that would be payable to the judge if he or she were living and receiving the benefits accorded by this article.

(Amended by Stats. 2004, Ch. 231, Sec. 13. Effective January 1, 2005.)

75077.5. For a judge who dies after retirement, the spouse of a judge at death may receive benefits payable to a surviving spouse under this chapter only if the spouse was married to the judge as of January 1, 1980, or continuously for a period beginning one year prior to the date of retirement and ending with the judge's death.

It is the intent of the Legislature that this section apply to all judges first appointed or elected to office on and after January 1, 1980, or to any judge who marries on or after January 1, 1980.

(Added by Stats. 1979, Ch. 709.)

75078. The allowance to the judge and to his surviving spouse under this article shall be paid by the State at the times and in the manner provided for the payment of salaries of justices of the Supreme Court.

(Added by Stats. 1959, Ch. 1363.)

75079. (a) When a judge elects and becomes entitled to receive the benefits accorded by this article, he or she does not have the right to select an optional settlement under the provisions of Article 3.5 (commencing with Section 75070) of this chapter.

(b) When a judge becomes entitled on and after January 1, 1987, to receive the benefits accorded by this article, the judge may instead elect an actuarially reduced retirement allowance payable for life and if the judge dies before he or she receives the amount of his or her accumulated contributions at retirement, the remaining unpaid amount of his or her accumulated contributions shall be paid to his or her designated beneficiary, if he or she has so designated, and if none, to his or her estate.

The election shall be made in writing and filed with the Judges' Retirement System within 30 calendar days after the making of the first payment on account of any retirement allowance.

(c) The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by Section 75076 but who elected to receive the actuarially reduced retirement allowance as provided in subdivision (b) and who dies during retirement shall receive, until death, an allowance equal to one-half of the retirement allowance that would have been payable to the judge if he or she were living and had elected to receive the benefits accorded by Section 75076.

(Amended by Stats. 2014, Ch. 237, Sec. 10. (AB 2472) Effective January 1, 2015.)

75079.5. Notwithstanding any other provision of this part, a judge who retires on or after January 1, 2002, and who elects to retire pursuant to Section 75025 shall have the right to elect an optional settlement pursuant to Article 3.5 (commencing with Section 75070).

(Added by Stats. 2001, Ch. 433, Sec. 8. Effective January 1, 2002.)