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AB-2443 Judges' Retirement System II: benefits. (2021-2022)

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Assembly Bill No. 2443

CHAPTER 531

An act to amend, repeal, and add Sections 22814 and 75590 of, and to add and repeal Section 75522.5 of, the Government Code, relating to retirement, and making an appropriation therefor.

[Approved by Governor September 25, 2022. Filed with Secretary of State September 25, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2443, Cooley. Judges' Retirement System II: benefits.

Existing law establishes the Judges' Retirement System II, which provides retirement and other benefits to its members and is administered by the Board of Administration of the Public Employees' Retirement System. Under the Judges' Retirement System II, a judge is eligible to retire upon attaining both 65 years of age and 20 or more years of service, or upon attaining 70 years of age with a minimum of 5 years of service. Existing law entitles a judge who retires pursuant to this authorization to elect between a specified a monthly retirement allowance for life or certain monetary credits. Existing law grants the surviving spouse of a judge who was eligible to retire, as specified, the right to elect to receive either a monthly retirement allowance or monetary credits within 90 days after the judge's death. Existing law establishes the right of the surviving spouse of a retired judge who elected to receive a monthly allowance, or who was retired for disability and receiving an allowance, to a specified monthly allowance.

This bill, on and after January 1, 2024, and until January 1, 2029, would authorize a judge who is not eligible to retire pursuant to the provisions described above to elect to retire and defer receipt of a monthly allowance, subject to specified formulations. In order to be eligible for these benefits, the bill would require a judge to be at least 60 years of age and have 15 years or more of service or 65 years of age with a minimum of 10 years of service. The retirement allowances prescribed by the bill would be based on a judge's final compensation and years of service credit adjusted by certain percentages that vary in relation to "full retirement age," as defined, and when the judge retires. The bill would prohibit a retirement allowance calculated pursuant to these provisions from exceeding, at the time of retirement, 75 percent of a judge's final compensation and would prohibit the calculation of the retirement allowance under these provisions from including more than 20 years of service. The bill would prescribe a process for electing these benefits. The bill would specify that a retirement pursuant to these provisions is a service retirement for purposes of law that regulates the employment of retired judges. This bill would also make conforming changes to account for the right to elect to retire and defer receipt of a monthly allowance in connection with the above-described rights of surviving spouses of judges.

Existing law, the Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System, authorizes employees or annuitants, as defined, to enroll in approved health benefit plans. PEMHCA authorizes a judge who leaves judicial office pursuant to specified conditions to continue the judge's coverage and the coverage of any family members upon assuming payment of the contributions otherwise required of the employer and by paying an additional amount to cover administrative expenses, as specified. Existing law establishes the Public Employees' Health Care Fund to fund the health benefit plans administered or approved by the board. Existing law

provides for the deposit of certain moneys, including employee and annuitant contributions, into the Public Employees' Health Care Fund, which is continuously appropriated to pay for benefits and claims, as specified.

This bill, on and after January 1, 2024, and until January 1, 2029, would authorize a judge who elects to retire pursuant to the retirement benefit that the bill would create, but who is not yet receiving a retirement allowance, and the surviving spouse of such a judge, to elect to continue coverage under PEMHCA upon assuming payment for contributions and administrative expenses, as described above. By authorizing additional moneys to be deposited in the continuously appropriated Public Employees' Health Care Fund, this bill would make an appropriation. The bill would also make technical changes.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 22814 of the Government Code is amended to read:

22814. (a) A judge who retires pursuant to Chapter 11 (commencing with Section 75000) of Title 8, but is not yet receiving a pension, may continue their coverage and the coverage of any family members for the duration of the leave of absence, upon their application and upon assuming payment of the contributions otherwise required of the employer.

(b) (1) A judge who leaves judicial office pursuant to subdivision (b) of Section 75521 and has not attained 65 years of age may continue their coverage and the coverage of any family members upon assuming payment of the contributions otherwise required of the employer. The judge shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Human Resources.

(2) An election to continue coverage under this subdivision shall be made within 60 days of permanent separation. A retired judge who cancels that coverage may not reenroll.

(3) Upon attaining 65 years of age, a retired judge who has continuous and uninterrupted coverage pursuant to this subdivision shall be entitled to the applicable employer contribution.

(c) (1) A judge who retires pursuant to Section 75522.5, but is not yet receiving a retirement allowance, may continue coverage and the coverage of any family members upon assuming payment of all contributions, including those otherwise required of the employer. The judge shall also pay an additional 2 percent of the premium amount to cover the reasonable administrative expenses incurred by the system or the Department of Human Resources.

(2) Upon commencement of the judge's retirement allowance, the judge shall become an annuitant, as defined in subdivision (a) of Section 22760, and thereupon the judge may continue the judge's health plan enrollment, enroll in a health benefit plan within 60 days of the commencement of the judge's retirement allowance, or enroll during any future open enrollment period, without discrimination as to premium rates or benefit coverage.

(d) (1) The surviving spouse of a deceased judge who retired pursuant to Section 75522.5, but was not yet receiving a retirement allowance upon the judge's death, may continue coverage and the coverage of any family members upon assuming payment of all contributions, including those otherwise required of the employer. The surviving spouse shall also pay an additional 2 percent of the premium amount to cover the reasonable administrative expenses incurred by the system or the Department of Human Resources.

(2) Upon commencement of the surviving spouse's monthly allowance, the surviving spouse shall become an annuitant, as defined in subdivision (b) of Section 22760, and thereupon the surviving spouse may continue the surviving spouse's health plan enrollment, enroll in a health benefit plan within 60 days of the commencement of the surviving spouse's monthly allowance, or enroll during any future open enrollment period, without discrimination as to premium rates or benefit coverage.

(e) (1) The amendments made to this section by the statute adding this subdivision shall be operative January 1, 2024.

(2) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 2. Section 22814 is added to the Government Code, to read:

22814. (a) A judge who retires pursuant to Chapter 11 (commencing with Section 75000) of Title 8, but is not yet receiving a pension, may continue their coverage and the coverage of any family members for the duration of the leave of absence, upon their application and upon assuming payment of the contributions otherwise required of the employer.

(b) (1) A judge who leaves judicial office pursuant to subdivision (b) of Section 75521 and has not attained 65 years of age may continue their coverage and the coverage of any family members upon assuming payment of the contributions otherwise required

of the employer. The judge shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Human Resources.

(2) An election to continue coverage under this subdivision shall be made within 60 days of permanent separation. A retired judge who cancels that coverage may not reenroll.

(3) Upon attaining 65 years of age, a retired judge who has continuous and uninterrupted coverage pursuant to this subdivision shall be entitled to the applicable employer contribution.

(c) This section shall be operative January 1 2029.

SEC. 3. Section 75522.5 is added to the Government Code, to read:

75522.5. (a) On and after January 1, 2024, a judge who is not eligible to retire pursuant to Section 75522 may elect to retire pursuant to this section, notwithstanding Section 7522.44, upon satisfying the eligibility requirements of the section. Retirement pursuant to this section shall be considered a service retirement for the purposes of Section 75580.5.

(b) A judge is eligible to retire pursuant to this section upon attaining both 60 years of age and 15 years or more of service, or upon attaining 65 years of age with a minimum of 10 years of service.

(c) The office of a judge who retires under this section becomes vacant on the date of retirement.

(d) (1) A judge who elects to retire pursuant to this section shall, within 30 days after the effective date of the retirement, elect to receive one of the benefits provided under subdivision (f). Under rules adopted by the board, the time for the election may be extended in cases of illness or other hardship, but once made, the election shall be final and irrevocable.

(2) If a retired judge fails or refuses to make an election pursuant to subdivision (f) within the time allowed, the retired judge shall be deemed to have elected to receive a monthly allowance under paragraph (1) of subdivision (f).

(e) For purposes of this section, "full retirement age" means the age and years of service at which a judge would have become eligible to retire under Section 75522 if the judge had continued to accrue years of service credit rather than retire pursuant to this section.

(f) Subject to the limits described in subdivision (g), a judge who elects to retire under this section shall receive, for life, a monthly retirement allowance equal to the applicable benefit factor multiplied by the judge's final compensation multiplied by the number of years of service credit, pursuant to one of the following paragraphs:

(1) This paragraph shall apply to the retirement allowance of a judge who retires prior to full retirement age and who defers to full retirement age. The benefit factor for a judge electing to retire pursuant to this paragraph shall be a percentage equal to 3.75 reduced by 0.07 for each year, taken to the preceding completed quarter year, the judge's date of retirement is prior to the judge's full retirement age.

(2) This paragraph shall apply to the retirement allowance of a judge who retires prior to full retirement age and who defers past full retirement age. The retirement allowance shall commence on the date the judge attains full retirement age plus an additional 0.22 years for each year the judge's date of retirement is prior to the judge's full retirement age. The benefit factor for a judge electing to retire pursuant to this paragraph equals 3.75 percent.

(g) (1) In no event shall the retirement allowance under this section calculated at the time of retirement exceed 75 percent of the judge's final compensation.

(2) The calculation of the retirement allowance under this section shall not include more than 20 years of service.

(h) This section shall remain in effect only until January 1, 2029, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2029, deletes or extends that date.

SEC. 4. Section 75590 of the Government Code is amended to read:

75590. (a) A surviving spouse of a judge who was eligible to retire pursuant to subdivision (a) of Section 75522 shall, within 90 days after the judge's death, elect to receive either of the following:

(1) A monthly retirement allowance equal to one-half of the judge's benefit factor computed as stated in subdivision (d) of Section 75522 as of the date of death, multiplied by the judge's final compensation multiplied by the number of years of service credit. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(2) The judge's monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution.

(b) A surviving spouse of a judge who was not eligible to retire pursuant to subdivision (a) of Section 75522, but was eligible to retire pursuant to subdivision (b) of Section 75522.5, shall, within 90 days after the judge's death, elect to receive either of the following:

(1) A monthly retirement allowance equal to one-half of the judge's benefit factor computed as stated in paragraph (1) of subdivision (f) of Section 75522.5 as of the date of death, multiplied by the judge's final compensation multiplied by the number of years of service credit. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(2) The judge's monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution.

(c) A surviving spouse of a retired judge who elected to receive a monthly allowance under subdivision (d) of Section 75522 or who was retired for disability and receiving an allowance under Section 75560.4 shall receive a monthly allowance equal to 50 percent of the deceased judge's unmodified monthly retirement allowance. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(d) (1) A surviving spouse of a retired judge who was receiving a retirement allowance under Section 75522.5 shall receive a monthly allowance equal to 50 percent of the deceased judge's unmodified monthly retirement allowance. The surviving spouse's allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(2) A surviving spouse of a judge who elected to retire and receive a retirement allowance under Section 75522.5, but who died before receiving the retirement allowance, shall receive a monthly allowance equal to 50 percent of the unmodified monthly retirement allowance the deceased judge would have received pursuant to Section 75522.5 had the judge been living and receiving the retirement allowance, beginning the date the judge would have been eligible to receive the benefits under Section 75522.5. This allowance shall be adjusted for changes in the cost of living in the same manner as provided in Section 75523.

(e) (1) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (A) died in office, (B) had attained the minimum age for service retirement applicable to the judge preceding their death, with a minimum of 20 years of service, and (C) was eligible to receive an allowance pursuant to Section 75522, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected the optional settlement specified in subdivision (b) of Section 75571 and in Section 75573.

(2) A surviving spouse receiving an allowance pursuant to this subdivision shall have no other claim to benefits with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement System II Law.

(3) The benefits provided by this subdivision are only payable to the surviving spouse of a judge who elects to come within this subdivision. That election may be made at any time while the judge is in office and, once made, the election is irrevocable.

(f) Except as provided in paragraph (2) of subdivision (d), a monthly allowance payable to a surviving spouse pursuant to this section is payable commencing upon the death of the judge and continuing until the death of the surviving spouse.

(g) (1) The amendments made to this section by the statute adding this subdivision shall be operative January 1, 2024.

(2) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 5. Section 75590 is added to the Government Code, to read:

75590. (a) A surviving spouse of a judge who was eligible to retire pursuant to subdivision (a) of Section 75522 shall, within 90 days after the judge's death, elect to receive either of the following:

(1) A monthly retirement allowance equal to one-half of the judge's benefit factor computed as stated in subdivision (d) of Section 75522 as of the date of death, multiplied by the judge's final compensation multiplied by the number of years of service credit. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(2) The judge's monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution.

(b) A surviving spouse of a retired judge who elected to receive a monthly allowance under subdivision (d) of Section 75522 or who was retired for disability and receiving an allowance under Section 75560.4 shall receive a monthly allowance equal to 50 percent of the deceased judge's last monthly retirement allowance. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(c) (1) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (A) died in office, (B) had attained the minimum age for service retirement applicable to the judge preceding their death, with a minimum of 20 years of service, and (C) was eligible to receive an allowance pursuant to Section 75522, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected the optional settlement specified in subdivision (b) of Section 75571 and in Section 75573.

(2) A surviving spouse receiving an allowance pursuant to this subdivision shall have no other claim to benefits with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement System II Law.

(3) The benefits provided by this subdivision are only payable to the surviving spouse of a judge who elects to come within this subdivision. That election may be made at any time while the judge is in office and, once made, the election is irrevocable.

(d) A monthly allowance payable to a surviving spouse pursuant to this section is payable commencing upon the death of the judge and continuing until the death of the surviving spouse.

(e) This section shall be operative January 1 2029.