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AB-2770 Public employees' retirement. (2023-2024)

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Assembly Bill No. 2770

CHAPTER 117

An act to amend Sections 22801, 23200, 23201, 23202, 24600, and 26004 of the Education Code, and to amend Sections 31628, 31720.91, 31783.5, 75521, 75553, 75570, and 75571.5 of the Government Code, relating to public employees' retirement.

[Approved by Governor July 15, 2024. Filed with Secretary of State July 15, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2770, Committee on Public Employment and Retirement. Public employees' retirement.

(1) Existing law, the Teachers' Retirement Law, establishes the State Teachers' Retirement System (STRS), and sets forth the provisions for its administration and the delivery of benefits to its members. Existing law authorizes a member to request to purchase additional service credit and to redeposit accumulated retirement contributions returned to the member, as provided. Existing law specifies the basis for the contribution amount, depending on whether the member is or is not employed to perform creditable service subject to coverage by the Defined Benefit Program on the date of the request to purchase additional service credit. Existing law requires additional regular interest to be added to the contributions, as specified, if the member is not employed to perform creditable service subject to coverage by the Defined Benefit Program on the date of the request to purchase additional service credit.

This bill would revise that interest calculation. The bill would require the member to sign and return the completed statement of contributions and interest required from STRS to purchase service credit at a specific cost no later than 35 calendar days from the date of the offer. The bill would also require a member to sign and return the completed election to repay accumulated retirement contributions from STRS to redeposit at a specific cost no later than 35 calendar days from the date of the offer.

Existing law authorizes members to request to redeposit all or a portion of specified contributions with regular interest from the date of refund to the date of payment.

This bill would instead authorize members to request to redeposit all or a portion of specified contributions with regular interest from the date of refund to the date STRS receives the request to redeposit.

This bill would also make various technical changes to the Teachers' Retirement Law.

(2) Existing law, the County Employees Retirement Law of 1937 (CERL), prescribes the rights, benefits, and duties of members of the retirement systems established pursuant to its provisions.

Existing law provides that participants in certain membership categories may be entitled to special benefits if the injury that causes their disability arises in the course of their employment. Existing law creates a presumption, for purposes of qualification for disability retirement benefits for specified members, that certain injuries, including post-traumatic stress disorder, as defined,

arose out of, or in the course of, the member's employment. Existing law authorizes the presumption relating to these injuries to be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement system is required to find in accordance with the presumption. Existing law repeals the provisions related to post-traumatic stress disorder on January 1, 2025.

This bill would instead repeal the provisions related to post-traumatic stress disorder on January 1, 2029.

Existing law prescribes the procedures the retirement board must follow to pay a member their accumulated contributions, if the service of a member is discontinued other than by death or retirement, including requiring the board to send to the member, a registered or certified letter, return receipt requested, as specified. Existing law also requires the board to attempt to locate a person or estate entitled to payment of a member's accumulated contributions or any other benefit that fails to claim the payment or cannot be located through means that the board in its sound discretion deems reasonable including, but not limited to, a registered or certified letter, return receipt requested, as specified.

This bill would remove the return receipt requirements.

(3) The Judges' Retirement Law prescribes retirement benefits for judges, as defined, who were first elected or appointed to judicial office before November 9, 1994. 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.

This bill would make various technical changes to provisions of the Judges' Retirement Law.

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

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

SECTION 1. Section 22801 of the Education Code is amended to read:

22801. (a) A member who requests to purchase additional service credit as provided in this chapter and Chapter 14.2 (commencing with Section 22820) shall pay, prior to retirement, all contributions with respect to that service at the contribution rate for additional service credit, adopted by the board as a plan amendment, in effect on the date of the request to purchase additional service credit. A member shall sign and return the completed statement of contributions and interest required from the system to purchase service credit at a specific cost no later than 35 calendar days from the date of the offer. If the system is unable to inform the member or beneficiary of the amount required to purchase additional service credit prior to the effective date of the applicable allowance, the member or beneficiary may make the required payment within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later, except as provided in subdivision (i). The payment shall be paid in full before a member or beneficiary receives any adjustment in the appropriate allowance due because of that payment. Contributions shall be made in a lump sum, or in not more than 120 monthly installments, not to exceed 10 years. No installment, except the final installment, shall be less than twenty-five dollars (\$25).

(b) If the member is employed to perform creditable service subject to coverage by the Defined Benefit Program on the date of the request to purchase additional service credit, the contributions shall be based upon the compensation earnable in the current school year or either of the two immediately preceding school years, whichever is highest.

(c) If the member is not employed to perform creditable service subject to coverage by the Defined Benefit Program on the date of the request to purchase additional service credit, the contributions shall be based upon the compensation earnable in the last school year of credited service or either of the two immediately preceding school years, whichever is highest, and additional regular interest shall be added to the contributions from July 1 of the subsequent year in which the member last performed creditable service subject to coverage by the Defined Benefit Program to the date of the request.

(d) The employer may pay the amount required as employer contributions for additional service credited under paragraphs (7), (8), (9), and (10) of subdivision (a) of Section 22803.

(e) The Public Employees' Retirement System shall transfer the actuarial present value of the assets of a person who makes an election pursuant to paragraph (11) of subdivision (a) of Section 22803.

(f) Regular interest shall be charged on the monthly unpaid balance if the member pays in installments. Regular interest may not be charged or be payable for the period of a delay caused by the system's inability or failure to determine and inform the member or beneficiary of the amount of contributions and interest that is payable. The period of delay shall commence on the 20th calendar day following the day on which the member or beneficiary who wishes to make payment evidences in writing to the system that they are ready, willing, and able to make payment to the system. The period of delay shall cease on the first day of the month following the mailing of notification of contributions and interest payable.

(g) If the payment described in subdivision (a) is not received at the system's headquarters office within 120 calendar days of the due date, the election pursuant to this section shall be canceled. The member shall receive credit for additional service based on the payments that were made or the member may request a return of their payments.

(h) If the election to purchase additional service credit is canceled as described in subdivision (g), the member may, prior to the effective date of their retirement, elect to purchase additional service credit pursuant to this section.

(i) The measurement of time within which the purchase of additional service credit described in subdivision (a) shall be made is subject to Section 22337.

SEC. 2. Section 23200 of the Education Code is amended to read:

23200. (a) If a person, whose accumulated retirement contributions have been refunded, again becomes a member of the Defined Benefit Program or is subject to Section 23201, the person may request to redeposit all or a portion of those contributions with regular interest from the date of refund to the date the system receives the request to redeposit.

(b) If a nonmember spouse, as defined in Section 22651, withdraws accumulated contributions in accordance with Section 22661, the member may redeposit all or a portion of those contributions pursuant to subdivision (a), providing they are not receiving an allowance under Chapter 26 (commencing with Section 24100) or Chapter 27 (commencing with Section 24201).

(c) If a member requests to redeposit a portion of all accumulated retirement contributions that were previously refunded subject to requirements imposed by the board, the member shall receive pro rata service credit in proportion to the amount redeposited.

SEC. 3. Section 23201 of the Education Code is amended to read:

23201. Any person whose accumulated retirement contributions were refunded, who wishes to establish concurrent membership, and who has received, or will qualify to receive, a retirement allowance from one or more of the retirement systems defined in Section 22115.2, may request to redeposit all or a portion of the accumulated retirement contributions that were refunded, with regular interest from the date of refund to the date the system receives the request to redeposit, without being employed to perform creditable service subject to coverage under the Defined Benefit Program.

SEC. 4. Section 23202 of the Education Code is amended to read:

23202. (a) An election pursuant to Section 23200 to redeposit accumulated retirement contributions may be made by a member anytime prior to the effective date of the member's retirement under this part.

(b) An election to redeposit accumulated retirement contributions returned to the member shall be considered as an election to repay accumulated retirement contributions previously returned, up to but not exceeding the amount required to restore the total service credit returned, under the provisions of this chapter. A member shall sign and return the completed election to repay accumulated retirement contributions from the system to redeposit at a specific cost no later than 35 calendar days from the date of the offer.

(c) If any payment due because of this election is not received at the system's headquarters office within 120 calendar days of its due date, the election shall be canceled. Upon the cancellation of election, the member shall receive credit for the payments made under the election or, at the request of the member, those payments shall be returned.

(d) If the election is canceled, the member may at any time prior to the effective date of retirement under this part, again elect to redeposit accumulated retirement contributions previously withdrawn or returned, in accordance with Section 23200 and all the laws, rules, and regulations pertaining thereto.

SEC. 5. Section 24600 of the Education Code is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability allowance and ceases on the earlier of the day of the member's death or the day on which the disability allowance is terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained normal retirement age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) (1) Except as provided in paragraph (2), a child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

(2) A child's portion of a disability retirement allowance under Chapter 26 (commencing with Section 24100) ceases on the earlier of either:

(A) The termination date of the child's eligibility.

(B) The termination of the allowance for reasons other than death.

(g) Supplemental payments issued under this part pursuant to Sections 24412 and 24415 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24412 and 24415 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive, of this section.

(h) Notwithstanding any other provision of this part or other law, distributions payable under the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986 and related regulations.

(1) In the case of a refund of contributions, as described in Chapter 18 (commencing with Section 23100) of this part and distribution of an amount equal to the balance of credits in a member's Defined Benefit Supplement account, as described in Chapter 38 (commencing with Section 25000) of this part, payments shall commence not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22166, payments shall commence not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), the phrase "terminates employment" means the later of:

(1) The date the member ceases to perform creditable service subject to coverage under this plan.

(2) The date the member ceases employment in a position subject to coverage under another public retirement system in this state if the compensation earnable while a member of the other system may be considered in the determination of final compensation pursuant to Section 22134 or 22134.5.

(3) In the case of a monthly allowance resulting from the death of a member:

(A) If the spouse is the sole beneficiary, payments shall commence not later than December 31 of the later of the calendar year in which the member would have attained the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or the calendar year following the calendar year of the member's death.

(B) If the spouse is not the sole beneficiary, payments shall commence not later than December 31 of the calendar year following the calendar year of the member's death.

(4) In the case of a distribution of the member's accumulated retirement contributions resulting from the death of a member or beneficiary or other lump-sum death benefit that represents the member's entire interest in the plan, including the death payment, payments shall be completed in accordance with Section 401(a)(9) of Title 26 of the United States Code and the regulations thereunder.

SEC. 6. Section 26004 of the Education Code is amended to read:

26004. Notwithstanding any other provision of law:

(a) The benefits payable to any participant or beneficiary under this part shall be subject to the limitations imposed by Section 415 of Title 26 of the United States Code.

(b) The amount of compensation that is taken into account in computing benefits under this part for a plan year shall not exceed the annual compensation limit applicable to that plan year in accordance with Section 401(a)(17) of Title 26 of the United States Code as that section read on the effective date of this section and as that section may be amended after that date. The determination of compensation for a 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average 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 respective annual compensation limit applicable to that period.

(c) Distributions from the plan under this part shall be made in accordance with Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution of a retirement benefit, disability benefit, or termination benefit, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates all employment subject to coverage by the plan.

(2) In the case of a retirement benefit or disability benefit that is to be paid in the form of an annuity, payment of the annuity shall begin not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates employment in all positions subject to coverage by the plan, with the annuity to continue over the life of the participant or the life of the participant and the participant's option beneficiary, or over a period not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary.

(3) In the case of a death benefit, distributions shall commence as follows:

(A) The normal form of the benefit or other lump-sum distribution shall be paid in accordance with Section 401(a)(9) of Title 26 of the United States Code and the regulations thereunder.

(B) Annuity payments shall commence as follows:

(i) If the spouse is the sole beneficiary, not later than December 31 of the later of the calendar year in which the participant would have attained the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or the calendar year following the calendar year of the participant's death.

(ii) If the spouse is not the sole beneficiary, not later than December 31 of the calendar year following the calendar year of the participant's death.

(d) If a person becomes entitled to a distribution from the plan under this part that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution from the plan of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

(e) The amount of any benefit from the plan under this part that is determined on the basis of actuarial assumptions shall be based on actuarial assumptions adopted by the board pursuant to Section 26213 as a plan amendment with respect to the Cash Balance Benefit Program and those assumptions shall preclude employer discretion and comply with Section 401(a)(25) of Title 26 of the United States Code.

SEC. 7. Section 31628 of the Government Code is amended to read:

31628. If the service of a member is discontinued other than by death or retirement, upon proper application submitted to the retirement board, they shall be paid all of their accumulated contributions, in accordance with this chapter, minus a withdrawal charge, if a withdrawal charge has been provided for by the regulations of the board. The board may order payment in whole or in part withheld for a period not to exceed six months after date of separation. If a member does not file the proper application, the board shall send to the member, not more than 90 days after termination of service, at their last known address, a registered or certified letter stating that they have money to their credit on the books of the retirement system and that if they do not claim the money within 10 years after date of notice, in the case of persons first employed before January 1, 1976, or within five years in the case of persons first employed on and after January 1, 1976, the money will be deposited in and become a part of the current pension reserve fund.

SEC. 8. Section 31720.91 of the Government Code is amended to read:

31720.91. (a) For purposes of a member who retires for disability from a system established under this chapter on the basis of being permanently incapacitated from the performance of their usual and customary duties because of an injury, as described in paragraph (1) of subdivision (c), it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the board shall be bound to find in accordance with the presumption.

(c) For purposes of this section:

(1) "Injury" means "post-traumatic stress disorder," as diagnosed according to the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and that develops or manifests itself during a period while a member is in the service of a department, office, or unit, consistent with paragraph (2).

(2) "Member" means a member of a public retirement system, established under this chapter, whose job classification is listed in Section 3212.15 of the Labor Code.

(d) The presumption described in subdivision (a) shall additionally apply to a member following termination of service for a period of 3 calendar months for each full year of the requisite service, but shall not to exceed 60 months regardless of the member's length of service, commencing with the last date the member actually worked in the classification specified in paragraph (2) of subdivision (c).

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

SEC. 9. Section 31783.5 of the Government Code is amended to read:

31783.5. (a) Whenever a person or estate entitled to payment of a member's accumulated contributions or any other benefit fails to claim the payment or cannot be located, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) The board shall attempt to locate the claimant through means that the board in its sound discretion deems reasonable including, but not limited to, a registered or certified letter mailed to the last known address of the claimant.

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivision (a) shall be held for the claimant. If the amounts are not claimed within five years after the last attempted contact with the claimant, the amounts shall be deposited in and become a part of the pension reserve fund. The board may at any time after transfer of unclaimed amounts upon receipt of information satisfactory to it, authorize the return of amounts so held in reserve to the credit of the claimant. Those amounts shall be paid only to claimants who have not yet attained the age for mandatory distribution under the Internal Revenue Code.

SEC. 10. Section 75521 of the Government Code is amended to read:

75521. (a) A judge who leaves judicial office before accruing at least five years of service shall be paid the amount of the judge's contributions to the system, and no other amount.

(b) Except as provided in Section 75522.5, a judge who leaves judicial office after accruing five or more years of service and who is not eligible to elect to retire under Section 75522 shall be paid the amount of 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, and no other amount.

(c) Judges who leave office as described in subdivision (b) are "retired judges" for purposes of a concurrent retirement with respect to the benefits provided under Section 20639 and assignment pursuant to Article 2 (commencing with Section 68540.7) of Chapter 2 and are eligible for benefits provided under Section 22814.

(d) After a judge has withdrawn their accumulated contributions or the amount of their monetary credits upon leaving judicial office, the service shall not count in the event they later become a judge again, until the judge pays into the Judges' Retirement System II Fund the amount withdrawn, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20750 from the date of withdrawal to the date of payment.

SEC. 11. Section 75553 of the Government Code is amended to read:

75553. (a) If a member leaves judicial office after a nonmember has received a share of the member's contributions or a share of the member's monetary credits pursuant to Section 75551, the member's retirement fund rights shall be determined pursuant to this section.

(b) If the member has redeposited the amount paid to the nonmember, with interest, pursuant to Section 75552, the payment to the nonmember shall be ignored and the member's rights shall be determined as though the payment to the nonmember had not occurred; and subdivisions (c), (d), and (e) shall not apply.

(c) If the member leaves judicial office before accruing at least five years of service, the member shall be paid the dollar amount of the member's contributions to the system minus the amount paid to the nonmember, and no other amount.

(d) If the member leaves office after accruing five or more years of service and either: (1) elects, pursuant to subdivision (e) of Section 75522, to receive the amount of the member's monetary credits; or (2) is entitled, pursuant to subdivision (b) or (c) of Section 75521 to receive only the amount of the member's monetary credits, the member shall be paid the amount of the member's monetary credits as provided in Section 75521 or subdivision (e) of Section 75522, reduced as provided in subdivision (d) of Section 75551.

(e) If the member elects to retire and receive a monthly allowance pursuant to either subdivision (d) of Section 75522 or Section 75522.5, the judge's monthly allowance shall equal the monthly allowance that would have been payable pursuant to subdivision (d) of Section 75522 or Section 75522.5, as applicable, based on the judge's service and salary, multiplied by a fraction equal to:

$$\frac{\text{NMS}}{\text{S}} + \frac{50\% (\text{MS})}{\text{S}}$$

where: _____ "S" = the member's total service
_____ "MS" = the member's service while married to
the nonmember prior to their separation
_____ "NMS" = the member's service while not married
to the nonmember

(f) If, notwithstanding paragraph (1) of subdivision (a) of Section 75551, the judgment did not specify the number of years of service that accrued during the marriage or other necessary facts, the system may make its own determination in order to make the computation in subdivision (e).

SEC. 12. Section 75570 of the Government Code is amended to read:

75570. (a) In lieu of electing the unmodified allowance for the judge's life alone, a judge who elects to retire and receive a monthly allowance under either subdivision (d) of Section 75522 or Section 75522.5 may elect, on or before the date of retirement, to have the actuarial equivalent of the judge's retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in Section 75571 if the judge retires on or before December 31, 2017, or Section 75571.5 if the judge retires on or after January 1, 2018.

(b) That election, revocation, or change of election shall be made by a writing filed with the system within 30 calendar days after the making of the first payment on account of any retirement allowance.

(c) If there is a spouse who would qualify for the survivor allowance under subdivision (b) of Section 75590, then the election, with respect to any optional settlement other than the optional settlement in subdivision (a) of Section 75571 or subdivision (b) of Section 75571.5, shall apply only to the portion of the retirement allowance that exceeds the amount of the allowance deemed payable to the surviving spouse.

SEC. 13. Section 75571.5 of the Government Code is amended to read:

75571.5. This section shall apply to any judge who retires on or after January 1, 2018.

(a) The unmodified allowance consists of the right to have the maximum retirement allowance paid to the judge for the judge's life alone. A continuing allowance to the surviving spouse, other than the benefit provided in subdivision (c) or (d) of Section 75590, is not provided and there is not a return of unused accumulated contributions after the death of the judge.

(b) The Return of Remaining Contributions Option 1 consists of the right to have a retirement allowance paid to the judge for the judge's life alone and if the judge dies before the judge receives in annuity payments the amount of the judge's accumulated contributions at retirement, to have the balance at death paid to the judge's surviving spouse, or if none, to the judge's designated beneficiary, or if none, to the judge's estate.

(c) (1) The 100 Percent Beneficiary Option 2 consists of the right to have a retirement allowance paid to the judge until the judge's death and thereafter to have the same monthly allowance paid to the judge's surviving spouse for life, provided that, with respect to a judge subject to subdivision (c) or (d) of Section 75590, the surviving spouse shall receive that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable pursuant to subdivision (c) or (d) of Section 75590.

(2) Upon the death of both the judge and the surviving spouse, any remaining balance of the judge's accumulated contributions at retirement not used to fund the allowances paid to the judge and the surviving spouse pursuant to this subdivision will be paid in a lump sum to the designated beneficiary of the deceased, or if none, to the estate of the deceased.

(d) (1) The 100 Percent Beneficiary Option 2 with Benefit Allowance Increase consists of the right to have a retirement allowance paid to the judge until the judge's death and thereafter to have the same monthly allowance paid to the judge's surviving spouse for life; provided that with respect to a judge subject to subdivision (c) or (d) of Section 75590, the surviving spouse shall receive that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable pursuant to subdivision (c) or (d) of Section 75590.

(2) If the judge's spouse predeceases the judge and the judge elected this optional settlement, the judge's allowance shall be adjusted effective the first day of the month following the death of the spouse to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the marriage of a retired judge is dissolved or a legal separation filed, and the judgment dividing the community property between the judge and the surviving spouse awards the total interest in this system to the retired judge, or the marriage is annulled and confirmed by a court, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(e) (1) The 50 Percent Beneficiary Option 3 consists of the right to have a retirement allowance paid to the judge until the judge's death and thereafter to have one-half of the monthly allowance paid to the judge's surviving spouse for life; provided that with respect to a judge subject to subdivision (c) or (d) of Section 75590, the surviving spouse shall receive one-half of that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable pursuant to subdivision (c) or (d) of Section 75590.

(2) Upon the death of both the judge and the surviving spouse, any remaining balance of the judge's accumulated contributions at retirement not used to fund the allowances paid to the judge and the surviving spouse pursuant to this subdivision will be paid in a lump sum to the designated beneficiary of the deceased, or if none, to the estate of the deceased.

(f) (1) The 50 Percent Beneficiary Option 3 with Benefit Allowance Increase consists of the right to have a retirement allowance paid to the judge until the judge's death and thereafter to have one-half of the monthly allowance paid to the judge's surviving spouse for life; provided that with respect to a judge subject to subdivision (c) or (d) of Section 75590, the surviving spouse shall receive one-half of that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable pursuant to subdivision (c) or (d) of Section 75590.

(2) If the judge's spouse predeceases the judge and the judge elected this optional settlement, the judge's allowance shall be adjusted effective the first day of the month following the death of the spouse to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the marriage of a retired judge is dissolved or a legal separation filed, and the judgment dividing the community property between the judge and the surviving spouse awards the total interest in this system to the retired judge, or the marriage is annulled and confirmed by a court, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(g) The Flexible Beneficiary Option 4 consists of the right to have a retirement allowance paid to a judge until the judge's death, and thereafter to have a monthly allowance paid to the judge's surviving spouse for life. Subject to Section 75570.5, the judge may select the monthly allowance payable to the surviving spouse from the options below:

(1) Specific Dollar Amount to a Surviving Spouse. The judge may specify that upon the judge's death after retirement, a monthly allowance in an amount determined by the judge be paid to the judge's surviving spouse for life.

(2) Specific Percentage to a Surviving Spouse. The judge may specify that upon the judge's death after retirement, a monthly allowance in an amount equivalent to a specified percentage of the judge's allowance be paid to the judge's surviving spouse for life.