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SB-885 Public employees' retirement. (2023-2024)

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Date Published: 09/01/2023 09:00 PM

Senate Bill No. 885

CHAPTER 159

An act to add Section 22338 to the Education Code, to amend Sections 7513.74, 20537, 20731, 22970.85, 31462, 31462.05, 31462.2, 31593, 31706, 31725.7, 31726, 31776.3, 75088.3, 75502, 75506.6, 75506.7, 75521, 75522.5, 75523, 75553, 75570, 75571, and 75571.5 of, to amend and repeal Sections 22814 and 75590 of, and to add Section 21714.5 to, the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor September 01, 2023. Filed with Secretary of State September 01, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 885, Committee on Labor, Public Employment and Retirement. Public employees' retirement.

(1) The Teachers' Retirement Law establishes the State Teachers' Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. STRS is administrated by the Teachers' Retirement Board. The Defined Benefit Program is funded by employer and employee contributions, as well as investment returns and state appropriations, which are deposited or credited to the Teachers' Retirement Fund, which is continuously appropriated for the purposes of the system.

Existing law, the California Fair Employment and Housing Act (FEHA), prohibits an employer from engaging in various defined forms of discriminatory employment practices. Existing law makes it an unlawful employment practice under FEHA for an employer with 5 or more employees to, among other things, include on any application for employment any question that seeks the disclosure of an applicant's conviction history, to inquire into or consider the conviction history of an applicant until that applicant has received a conditional offer, and, when conducting a conviction history background check, to consider, distribute, or disseminate information related to specified prior arrests, diversions, and convictions. Existing law specifies situations in which an employer is authorized to request this information, including when hiring for a position for which a state or local agency is otherwise required by law to conduct a conviction history background check.

This bill would authorize STRS to collect specified criminal history information for employees of STRS and applicants for employment with STRS while a tentative offer is pending, if the position includes certain duties.

(2) Existing law, the Public Employees' Retirement Law (PERL), creates the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to state employees and employees of contracting agencies and prescribes the rights and duties of members of the system and their beneficiaries. Under PERL, benefits are funded by investment income and employer and employee contributions, which are deposited into the Public Employees' Retirement Fund, a continuously appropriated trust fund administered by the system's board of administration. Existing law vests management and control of PERS in its board of administration. PERS provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations.

Existing law permits the board to charge interest on payments due and unpaid by a contracting agency at the greater of the annual return on the system's investments for the year prior to the year in which payments are not timely made or a simple annual rate of 10%.

This bill would remove the board's option to charge interest at the annual return on the system's investments for the year prior in which payments are not timely made, and instead would require the board to charge interest at a simple annual rate of 10%.

(3) Existing law authorizes a member of PERS, who is credited with less than a certain number of years of service and who enters employment as a member of another public retirement system supported by state funds, within 6 months of leaving state service, to elect to leave their accumulated contributions on deposit in the retirement fund. Existing law specifies that a member's failure to make an election to withdraw accumulated contributions is deemed an election to leave the member's accumulated contributions on deposit in the retirement fund. Existing law provides that a member may revoke their election to allow accumulated contributions to remain in the retirement system, except under specified circumstances. Existing law requires a member who is permanently separated from all PERS covered service, who meets specified conditions, and who attains $71\frac{1}{2}$ years of age, to be provided with an election to withdraw contributions, or, if vested, an election to either apply for service retirement or to withdraw contributions.

This bill would instead require a member permanently separated under the circumstances described above to attain the age that is $1\frac{1}{2}$ of a year prior to the age specified by federal law before being provided with those election options.

(4) Existing law establishes the Supplemental Contributions Program as a defined contribution plan to supplement the benefits provided under PERL. Existing law establishes the Supplemental Contributions Program Fund as a special trust fund, with moneys in the fund continuously appropriated to the Board of Administration of PERS, for purposes of the program. Under existing law, a participant or beneficiary is not permitted to elect a distribution under the plan that does not satisfy federal requirements related to being a qualified pension trust plan. Existing law requires the beginning date of distributions that reflect the entire interest of the participant, for a lump-sum distribution to the participant, to be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 72 years of age or the calendar year in which the participant terminates all employment. Existing law requires the beginning date of distributions, if provided in periodic payments, to begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 72 years of age or the calendar year in which the participant terminates all employment subject to plan coverage. Existing law also requires, if a benefit is payable on account of the participant's death, and the beneficiary is the participant's spouse, that distributions commence on or before the later of either December 31 of the calendar year immediately following the calendar year in which the participant dies or December 31 of the calendar year in which the participant would have attained 72 years of age.

This bill would change the age for required distributions, in the circumstances described above, from 72 years of age to the age specified by federal law.

(5) Existing law creates the California Employers' Pension Prefunding Trust Program and the California Employers' Pension Prefunding Trust Fund to allow state and local public agency employers that provide a defined benefit pension plan to their employees to prefund their required pension contributions. Existing law authorizes an employer, upon terms and conditions set by the board, to elect to participate in the prefunding plan by entering into a contract with the board relative to the prefunding plan.

This bill would authorize an employer participating in the program, upon terms and conditions established by the board, to request a disbursement of funds from its account in the California Employers' Pension Prefunding Trust Fund and transfer those funds directly into the Public Employees' Retirement Fund. By authorizing the transfer of funds from the continuously appropriated California Employers' Pension Prefunding Trust Fund to the continuously appropriated Public Employees' Retirement Fund, this bill would make an appropriation.

(6) 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 also establishes the Extended Service Incentive Program to provide enhanced retirement benefits for those judges who continue in service beyond retirement age, as specified, and directs the Board of Administration of PERS to implement the program. Existing law prescribes that the required beginning date of distributions that reflect the entire interest of the judge, for a lump-sum distribution, be made not later than April 1 of the calendar year following the later of the calendar year in which the judge attains 72 years of age or the calendar year in which the judge terminates employment. Existing law also requires, if a benefit is payable on account of the judge's death, and the beneficiary is the judge's spouse, that distributions commence on or before the later of December 31 of the calendar year immediately following the calendar year in which the judge dies or December 31 of the calendar year in which the judge would have attained 72 years of age.

This bill would change the age for required distributions, in the circumstances described above, from 72 years of age to the age specified by federal law.

(7) 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 PERS. 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, on and after January 1, 2024, and until January 1, 2029, additionally authorizes a judge who is 60 years of age and has 15 years or more of service or 65 years of age and has 10 years or more of service 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. Existing law requires a judge who leaves judicial office before accruing at least 5 years of service to be paid the amount of the judge's contributions to the system.

This bill would make various changes to the Judges' Retirement System II to grant a judge who elects to retire under the provisions operative January 1, 2024, benefits and options given to a judge who elects 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, as described above, including, among others, authorizing a judge to receive service credit for specified military service and requiring the retirement allowance to be increased for the cost of living. The bill would require a monthly allowance or optional settlement payable to a surviving spouse of a judge who elected to retire under the provisions operative January 1, 2024, and who died before receiving a retirement allowance, to begin the date the judge would have been eligible to receive a retirement allowance until the death of the surviving spouse. The bill would specify that a judge who elects to retire under the provisions operative January 1, 2024, makes that election in lieu of being paid the amount of the judge's contributions to the system. The bill would remove the January 1, 2029, repeal date for the election operative January 1, 2024, and would instead provide that the election only applies to a judge who retires before January 1, 2029.

(8) Existing law permits a member of the Judges' Retirement System II to select from various optional settlements for the purpose of structuring their retirement benefits. Existing law, under optional settlement 1, provides for payment of a retirement allowance until death and the payment of any remaining contributions at death to their surviving spouse or estate.

Under an optional settlement 1 retirement, this bill would allow, if there is no surviving spouse, for the remaining contributions at death to be paid to a judge's designated beneficiary.

(9) The California Constitution grants the retirement board of a public employee retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the retirement fund and system. The California Constitution qualifies this grant of powers by reserving to the Legislature the authority to prohibit investments if it is in the public interest and the prohibition satisfies standards of fiduciary care and loyalty required of a retirement board. Existing law prohibits the boards of administration of PERS and STRS from making investments in certain countries and in thermal coal companies, as specified, subject to the boards' plenary authority and fiduciary responsibility for investment of moneys and administration of the systems.

Existing law, upon the passage of a federal law that imposes sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, prohibits the boards of administration of PERS and STRS from making additional or new investments, or renewing existing investments, of public employee retirement funds in an investment vehicle in the government of Turkey that is issued by the government of Turkey or that is owned by the government of Turkey. Existing law requires these boards to submit a report to the Legislature regarding the above-prescribed divestment action on or before January 1, 2024.

This bill would change the January 1, 2024, reporting date to January 1, 2035.

(10) Existing law, the County Employees Retirement Law of 1937 (CERL), authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to county, city, and district employees and their beneficiaries. Under existing law, CERL provides for a defined retirement benefit based upon credited service, final compensation, and age at retirement subject to specified formulas relating to membership classification.

This bill would clarify the definition of final compensation for specified members, members who are subject to the California Public Employees' Pension Reform Act of 2013, and members whose services are on a tenure that is temporary, seasonal, intermittent, or part time in the CERL, as described.

(11) Under existing law, CERL prescribes requirements regarding notification of members who have left service and elected to leave accumulated contributions in the retirement fund or have been deemed to have elected deferred retirement, as specified. Existing law requires the retirement system to begin paying an unmodified retirement allowance to a member, or a one-time distribution of all accumulated contributions and interest if the member is otherwise ineligible for a deferred retirement allowance, not later than April 1 following the calendar year in which the member attains 72 years of age, if the member can be located but does not submit a proper application for a deferred retirement allowance, as specified. Existing law prescribes alternate requirements if a member cannot be located and attains 72 years of age. Existing law establishes the Deferred Retirement Option Program, which a county or district may elect to offer and that provides an additional benefit on retirement to participating members.

This bill would clarify that the above-described notice shall be provided by the board. The bill would revise the age at which the retirement system is required to either start payment of an unmodified retirement allowance or make a one-time distribution of accumulated contributions and interest to the age specified by federal law. The bill would change the age threshold from April 1 of the calendar year in which the member attains 72 years of age to the age specified by federal law with regard to requirements that apply when members cannot be located and with reference to when distributions are to be made to members who are participating in a Deferred Retirement Option Program.

This bill would correct several erroneous references and also make other technical, nonsubstantive changes to these provisions.

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

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

SECTION 1. Section 22338 is added to the Education Code, to read:

22338. (a) (1) This section applies to current employees of the system as a condition of their employment as well as applicants who apply to become employees of the system while a tentative offer is still pending.

(2) The criminal history check authorized by this section is limited to those employees and applicants whose duties include, or would include, any of the following:

(A) Access to confidential or sensitive information and data maintained by the system or submitted to the system by its members and others.

(B) The system's chief executive officer performing duties pursuant to Section 22301.

(C) Legal services and operations.

(D) Actuarial, investment, audit, accounting, and financial services.

(E) A position that requires driving as an essential function of the position.

(b) The system shall submit to the Department of Justice fingerprint images and related information required by the department of each employee and applicant for employment, specified in subdivision (a), in accordance with subdivision (u) of Section 11105 of the Penal Code.

(c) The Department of Justice shall provide a state or federal response to the system pursuant to subdivision (p) of Section 11105 of the Penal Code.

(d) The system shall use the records and information received from the Department of Justice pursuant to subdivisions (b) and (c) exclusively for the purposes of employment subject to Section 19572 of the Government Code and to screen applicants for employment while a tentative offer is still pending with the system.

SEC. 2. Section 7513.74 of the Government Code is amended to read:

7513.74. (a) As used in this section, the following terms have the following meanings:

(1) "Board" means the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board of the State Teachers' Retirement System, as applicable.

(2) "Government of Turkey" means the government of Turkey or its instrumentalities or political subdivisions.

(3) "Public employee retirement funds" means the Public Employees' Retirement Fund described in Section 20062 and the Teachers' Retirement Fund described in Section 22167 of the Education Code.

(4) "Turkey" means the Republic of Turkey.

(b) Upon passage of a federal law by both the United States House of Representatives and the United States Senate, and signed by the President of the United States, imposing sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, the board shall not make additional or new investments or renew existing investments of public employee retirement funds in any investment vehicle in the government of Turkey that meets either of the following criteria:

(1) The investment vehicle is issued by the government of Turkey.

(2) The investment vehicle is owned by the government of Turkey.

(c) The board shall liquidate investments as described in subdivision (b), within 18 months of the passage of a federal law, pursuant to subdivision (b), that imposes sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide.

(d) Within one year of the passage of a federal law pursuant to subdivision (b) imposing sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, the board shall file a report with the Legislature, in compliance with Section 9795, and with the Governor, that shall include the following:

(1) A list of investment vehicles in the government of Turkey of which the board has liquidated its investments pursuant to subdivision (c).

(2) A list of investment vehicles in the government of Turkey of which the board has not liquidated its investments as a result of a determination made pursuant to subdivision (e) that a sale or transfer of investments is inconsistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution and the board's findings adopted in support of that determination.

(e) Nothing in this section shall require a board to take action as described in this section unless the board determines in good faith that the action described in this section is consistent with the fiduciary responsibilities of the board described in Section 17 of Article XVI of the California Constitution.

(f) (1) Before an extension of the operation of this section, the board shall, using methods or processes as determined by the board, reevaluate the merit of continuing the prescribed divestment action, including, but not limited to, the financial effects of the divestment action on the fiduciary responsibilities of the board pursuant to Section 17 of Article XVI of the California Constitution.

(2) On or before January 1, 2035, the board shall submit a report to the Legislature with the information described in paragraph (1) on the merit of continuing the prescribed divestment action.

(3) A report submitted pursuant to this subdivision shall be submitted in compliance with Section 9795.

(g) This section shall be repealed on the earlier of the following dates:

(1) Upon a determination by the board, the United States Department of State, the Congress of the United States, or other appropriate federal agency, that the government of Turkey has officially acknowledged its responsibility for the Armenian Genocide.

(2) January 1, 2035.

SEC. 3. Section 20537 of the Government Code is amended to read:

20537. The board may charge interest on the amount of any payment due and unpaid by a contracting agency until payment is received. Interest shall be charged at a simple annual rate of 10 percent. The interest shall be deemed interest earnings for the year in which the late payment is received.

SEC. 4. Section 20731 of the Government Code is amended to read:

20731. (a) Notwithstanding any other provision of this part, a member who is credited with less than the years of service specified in Article 1 (commencing with Section 21060) of Chapter 12 who enters employment as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System, or as a member of a county retirement system, within six months of leaving state service, shall have the right to elect to leave accumulated contributions on deposit in the retirement fund. Failure to make an election to withdraw accumulated contributions shall be deemed an election to leave accumulated contributions on deposit in the retirement fund. This section shall also apply to a member who is subject to Section 21076 or 21076.5.

(b) (1) An election to allow accumulated contributions to remain in the retirement fund may be revoked by the member at any time, except any of the following:

(A) While the member is employed in state service in a position in which the member is not excluded from membership with respect to that service.

(B) While the member is in service as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System.

(C) While the member is in service, entered within six months after discontinuing state service, as a member of a county retirement system.

(2) All accumulated contributions in a member's account up to the time of revocation shall be distributed in accordance with an election pursuant to Section 20735.

(3) A member who is permanently separated from all service covered by the system, who is not subject to paragraph (1), and who attains the age that is one-half of a year prior to the age prescribed by Section 401(a)(9) of the Internal Revenue Code shall be provided with an election to withdraw contributions or, if vested, an election to either apply for service retirement or to withdraw contributions. Failure to apply for service retirement or to make an election to withdraw contributions within 90 days shall be deemed an election to withdraw contributions. If the person fails to either apply for service retirement or elect to withdraw contributions, or cannot, with reasonable diligence, be located, the accumulated contributions shall be distributed in accordance with Section 21500.

(c) A member whose membership continues under this section is subject to the same age and disability requirements as apply to other members for service or for disability retirement. After the qualification of the member for retirement by reason of age, which shall be the lowest age applicable to any membership category in which the member has credited service, or disability, the member shall be entitled to receive a retirement allowance based upon the amount of the member's accumulated contributions and service standing to the member's credit at the time of retirement and on the employer contributions held for the member and calculated in the same manner as for other members, except that the provisions in this part for minimum service and disability retirement allowances shall not apply to the member, unless the member meets the minimum service requirements. If a basic death benefit becomes payable under Article 1 (commencing with Section 21490), Article 2 (commencing with Section 21530), and Article 5 (commencing with Section 21620) of Chapter 14 because of death before retirement of a member, the average annual compensation earnable in the year preceding the date of termination of that service, rather than in the year preceding death, shall be used in computing the benefit under Articles 1, 2, and 5 of Chapter 14.

The provisions of this section, as it read prior to June 21, 1971, shall continue with respect to a member whose membership continued under this section on that date.

SEC. 5. Section 21714.5 is added to the Government Code, to read:

21714.5. Pursuant to terms and conditions established by the board, an employer may request a disbursement of funds from its account in the California Employers' Pension Prefunding Trust Fund, as set forth in Section 21711, and transfer those funds directly into the Public Employees' Retirement Fund, as set forth in Section 20170. The board shall certify to the Controller the total amount to be transferred and the Controller shall transfer that amount from the California Employers' Pension Prefunding Trust Fund to the Public Employees' Retirement Fund.

SEC. 6. Section 22814 of the Government Code, as amended by Section 1 of Chapter 531 of the Statutes of 2022, 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.

SEC. 7. Section 22814 of the Government Code, as added by Section 2 of Chapter 531 of the Statutes of 2022, is repealed.

SEC. 8. Section 22970.85 of the Government Code is amended to read:

22970.85. Notwithstanding any other provision of this part, a participant or beneficiary shall not be permitted to elect a distribution under this part that does not satisfy the requirements of paragraph (9) of subsection (a) Section 401 of Title 26 of the United States Code, including the incidental death benefit requirements of subparagraph (G) of paragraph (9) of subsection (a) of Section 401 and the regulations thereunder. The required beginning date of distributions that reflect the entire interest of the participant shall be as follows:

(a) In the case of a lump sum distribution to the participant, the lump sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age prescribed by Section 401(a)(9) of the Internal Revenue Code or the calendar year in which the participant terminates employment.

(b) In the case of a distribution to the participant in the form of periodic payments, payment shall begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age prescribed by Section 401(a)(9) of the Internal Revenue Code or the calendar year in which the participant terminates employment.

(c) In the case of a benefit payable on account of the participant's death after distributions to the participant have commenced in the form of periodic payments, the remainder of the participant's account shall be distributed at least as rapidly as if the participant had not died.

(d) In the case of a benefit payable on account of the participant's death before distributions to the participant have commenced, distributions shall be paid no later than December 31 of the calendar year in which the fifth anniversary of the participant's date of death occurs unless the benefit is paid over a period not extending beyond the life expectancy of the beneficiary and distributions commence not later than December 31 of the calendar year immediately following the calendar year in which the participant died, or in the event that the beneficiary is the participant's spouse, distributions must commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(2) December 31 of the calendar year in which the participant would have attained the age prescribed by Section 401(a)(9) of the Internal Revenue Code.

SEC. 9. Section 31462 of the Government Code is amended to read:

31462. (a) "Final compensation" means the average annual compensation earnable by a member during any three years elected by a member at or before the time the member files an application for retirement, or, if the member fails to elect, during the three years immediately preceding their retirement. If a member has less than three years of service, their final compensation shall be determined by dividing their total compensation earnable by the number of months of service credited to them and multiplying by 12.

(b) This section shall not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013 for all or any portion of their membership in the county retirement system.

SEC. 10. Section 31462.05 of the Government Code is amended to read:

31462.05. (a) For a member who is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) for all or any portion of their membership in the county retirement system, "final compensation" as defined in Section 7522.32 shall apply.

(b) If a member has less than three years of service, that member's final compensation shall be determined by dividing the total pensionable compensation by the number of months of service credited to the member and multiplying by 12.

(c) When determining final compensation for a member who does not have three consecutive years of earned pensionable compensation due to an absence, the compensation for any absence shall be based on the pensionable compensation of the position held by the member immediately prior to the absence.

SEC. 11. Section 31462.2 of the Government Code is amended to read:

31462.2. (a) "Final compensation" for members whose service is on a tenure that is temporary, seasonal, intermittent, or for part time only means one-third of the total compensation earnable earned for that period of time during which the member rendered the equivalent of three years of full-time service.

(b) The member may elect at or before the time the member files an application for retirement the period of time during which the member has earned three full years of credit upon which final compensation shall be calculated. If the member does not so elect, that period of time immediately preceding their retirement shall be used.

(c) This section also applies to a member meeting the conditions specified in subdivision (a), whose service is described in subdivision (a), and who is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1).

SEC. 12. Section 31593 of the Government Code is amended to read:

31593. The retirement board shall conduct an audit of the retirement system at least once every 12 months and report upon its financial condition. The retirement board may retain the services of a certified public accountant to perform the annual audit. That audit shall be performed in accordance with generally accepted auditing standards. The cost of the audit shall be considered a cost of the administration of the retirement system. The audit report shall address the financial condition of the retirement system, internal accounting controls, and compliance with applicable laws and regulations. A copy of the audit report shall be filed with the board of supervisors.

Nothing in this section shall preclude the retirement board from selecting the county auditor to perform the annual audit, and if so done, the cost of that audit shall be considered a cost of the administration of the retirement system.

At the request of the county board of supervisors, the county auditor may audit the accounts of the retirement system. The expense of that audit shall not be a cost chargeable by the county to the retirement system.

SEC. 13. Section 31706 of the Government Code is amended to read:

31706. Any member who has left county service and has elected to leave accumulated contributions in the retirement fund, or who is deemed to have elected a deferred retirement pursuant to subdivision (b) of Section 31700, and who has attained 70 years of age but has not yet applied for a deferred retirement allowance, and who is not a reciprocal member of a retirement system established pursuant to this chapter or the Public Employees' Retirement Law, shall be notified in writing by the board that the member is eligible to apply for, and shall begin receiving, either a deferred retirement allowance by the required beginning date specified in Section 401(a)(9) of Title 26 of the United States Code or a one-time distribution of all accumulated contributions and interest. The notification shall be made at the time the deferred member attains 70 years of age and shall be sent by certified mail to the member's last known address, or to the member's last known employer, as shown by the records of the retirement system. If the member can be located but does not make proper application for a deferred retirement allowance with retirement to be effective by the required beginning date specified in Section 401(a)(9) of Title 26 of the United States Code, the retirement system shall commence paying either an unmodified allowance to the member, if the member was eligible to begin receiving a deferred retirement allowance under the provisions of Section 31485.22, or a one-time distribution of all accumulated contributions and interest if the member is otherwise ineligible for a deferred retirement allowance. If the member cannot be located by the required beginning date specified in Section 401(a)(9) of Title 26 of the United States Code, all of the member's accumulated contributions and interest thereon shall be deposited in, and become a part of, the current pension reserve fund of the retirement system. The board may at any time after transfer of proceeds to the reserve fund upon receipt of proper information satisfactory to it, redeposit the proceeds to the credit of the claimant, to be administered in the manner provided under this law. This section shall not apply to a member while the member is actively employed past mandatory retirement age in a retirement system established under the provisions of this chapter or the Public Employees' Retirement Law.

SEC. 14. Section 31725.7 of the Government Code is amended to read:

31725.7. (a) Except as provided in subdivision (b), at any time after filing an application for disability retirement with the board, the member may, if eligible, apply for, and the board in its discretion may grant, a service retirement allowance pending the determination of their entitlement to disability retirement. If the member is found to be eligible for disability retirement, appropriate

adjustments shall be made in their retirement allowance retroactive to the effective date of their disability retirement as provided in Section 31724.

(b) Notwithstanding subdivision (a), this section shall also apply to a member retired for service who subsequently files an application for disability retirement with the board. If the member retired for service is found to be eligible for disability retirement, appropriate adjustments shall be made in their retirement allowance retroactive to the effective date of their disability retirement, as provided in Section 31724.

(c) This section shall not be construed to authorize a member to receive more than one type of retirement allowance for the same period of time nor to entitle any beneficiary to receive benefits that the beneficiary would not otherwise have been entitled to receive under the type of retirement that the member is finally determined to have been entitled. In the event a member retired for service is found not to be entitled to disability retirement, they shall not be entitled to return to their job as provided in Section 31725.

(d) If the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary shall be as selected by the member at the time of retirement for service. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall also be binding as to the type of allowance the member receives if the member is awarded a disability retirement.

(e) Notwithstanding subdivision (d), if the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary may be as selected by the member at the time of retirement for service, or as if the member had selected an unmodified allowance. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall not be binding as to the type of allowance the member receives if the member is awarded a disability retirement. A change to the optional or unmodified type of allowance shall be made only at the time a member is awarded a disability retirement and the change shall be retroactive to the service retirement date and benefits previously paid shall be adjusted. If a change to the optional or unmodified type of allowance is not made, the benefit shall be adjusted to reflect the differences in retirement benefits previously received. This subdivision shall only apply to members who retire on or after January 1, 1999.

SEC. 15. Section 31726 of the Government Code is amended to read:

31726. (a) Upon retirement for nonservice-connected disability, a member who has attained 65 years of age shall receive their service retirement allowance.

(b) Every member under 65 years of age who is retired for nonservice-connected disability and who is not simultaneously retired as a member on deferred retirement of the Public Employees' Retirement System or a retirement system established under this chapter in another county shall receive a disability retirement allowance, which shall be the greater of the following:

(1) The sum to which the member would be entitled as service retirement; or

(2) A sum that shall consist of any of the following:

(A) An annuity that is the actuarial equivalent of the member's accumulated contributions at the time of retirement.

(B) If, in the opinion of the board, the member's disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on the member's part, a disability retirement pension purchased by contributions of the county or district.

(C) If, in the opinion of the board, the member's disability is not due to conviction of a felony or criminal activity that caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district. This subparagraph shall only apply to a person who becomes a member of the system on or after January 1, 1988.

SEC. 16. Section 31776.3 of the Government Code is amended to read:

31776.3. (a) Unless the implementing ordinance otherwise provides, the balance in the participant's program account shall be distributed to the participant in a single lump-sum payment at the time of retirement. If requested by the participant, the payment may be immediately deposited into a qualified tax-deferred account established by the participant.

(b) The implementing ordinance may provide one or more of the following optional forms of distribution for a participant's account:

(1) Substantially level installment payments over 240 months starting with the date that the member leaves DROP. The balance in the participant's account during the installment payout period shall be credited with interest at the same rate, if any, as is being credited to program accounts for currently active members. A cost-of-living adjustment may not be made to the monthly amount being paid pursuant to this paragraph.

(2) An annuity in a form established by the board and subject to the applicable provisions of the Internal Revenue Code that shall be the actuarial equivalent of the balance in the participant's program account on the retirement date. The "actuarial equivalent" under this paragraph shall be determined on the same basis as is used for determining optional settlements at retirement for a member's monthly retirement allowance.

(c) Notwithstanding any other provision of this article, a participant, nonparticipant spouse, or beneficiary may not be permitted to elect a distribution under this article that does not satisfy the requirements of 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.

(d) The required beginning date of distributions that reflect the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution to the participant, the lump-sum payment shall be made, at the participant's option, not later than the required beginning date specified in Section 401(a)(9) of Title 26 of the United States Code, or an age determined by the Internal Revenue Service, or the calendar year in which the participant terminates all employment for the employer.

(2) In the case of a distribution to the participant in the form of installment payments or an annuity, payment shall begin, at the participant's option, not later than the required beginning date specified in Section 401(a)(9) of Title 26 of the United States Code, or an age determined by the Internal Revenue Service, or the calendar year in which the participant terminates all employment subject to coverage by the plan.

(3) In the case of a benefit payable on account of the participant's death, distribution shall be paid at the option of the beneficiary, no later than December 31 of the calendar year in which the first anniversary of the participant's date of death occurs unless the beneficiary is the participant's spouse in which case distributions shall commence on or before the later of either of the following:

(A) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(B) December 31 of the calendar year in which the participant would have attained the applicable age that determines the required beginning date specified in Section 401(a)(9) of Title 26 of the United States Code, or an age determined by the Internal Revenue Service.

SEC. 17. Section 75088.3 of the Government Code is amended to read:

75088.3. The required beginning date of distributions that reflect the entire interest of the judge shall be as follows:

(a) In the case of a lump-sum distribution to the judge, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the judge attains the age prescribed by Section 401(a)(9) of the Internal Revenue Code or the calendar year in which the judge terminates employment.

(b) In the case of a program payment payable on account of the judge's death, the distribution shall be made no later than December 31 of the calendar year in which the fifth anniversary of the judge's date of death occurs unless the beneficiary is the judge's spouse in which case distributions shall commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the judge dies.

(2) December 31 of the calendar year in which the judge would have attained the age prescribed by Section 401(a)(9) of the Internal Revenue Code.

SEC. 18. Section 75502 of the Government Code is amended to read:

75502. (a) "Judge" means a justice of the Supreme Court or of a court of appeal, or a judge of a superior court, municipal court, or justice court who is first elected or appointed to judicial office on or after November 9, 1994, and is not a member of the Judges' Retirement System pursuant to Chapter 11 (commencing with Section 75000). A retired judge does not acquire status as a judge for the purposes of this chapter by reason of designation as a temporary judge of, or assignment by the Chairperson of the Judicial Council to, any of these courts.

A former member of the Judges' Retirement System under Section 75002 who withdrew the member's contributions upon leaving office, and who takes judicial office on or after November 9, 1994, becomes a member of the system existing under Chapter 11 (commencing with Section 75000) and does not become a member of the Judges' Retirement System II. No person shall be a member of the Judges' Retirement System II who is or ever has been a member of the Judges' Retirement System pursuant to Chapter 11 (commencing with Section 75000).

(b) "System" means the Judges' Retirement System II established by this chapter.

(c) "Service" means the period of time a judge received a salary and made contributions to the system by reason of holding office as a judge of any one or more of the courts of this state specified in subdivision (a), computed in years and fractions of years.

(d) "Final compensation" means the average monthly salary of a judge during the 12 months immediately preceding the judge's retirement from or otherwise leaving judicial office and as limited by Section 75572.

(e) "Benefit factor" means the percentage used in calculating a judge's monthly retirement allowance under Section 75522 or 75522.5.

(f) "Contributions" means the accumulated deductions from the judge's salary under Sections 75601 and 75602. References to payment to a judge of their contributions or to the determination of a judge's and spouse's shares in the contributions include both the contributions and interest thereon at the rates determined by the Board of Administration of the Public Employees' Retirement System.

(g) "Salary" means the compensation received by a judge as the emolument of the office of judge, but does not include any additional compensation received by reason of designation as a temporary judge or assignment by the Chairperson of the Judicial Council or the additional compensation pursuant to Section 68203.1.

(h) "Board" means the Board of Administration of the Public Employees' Retirement System.

(i) "Fund" or "retirement fund" means the Judges' Retirement System II Fund established pursuant to Section 75600.

(j) All references to "spouse," "surviving spouse," or "marriage" in this chapter apply equally to a domestic partner or domestic partnership, as defined in Section 297 of the Family Code, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner to the extent provided by Section 297.5 of the Family Code.

SEC. 19. Section 75506.6 of the Government Code is amended to read:

75506.6. (a) A judge may elect, in writing filed with the Judges' Retirement System II, to make contributions and receive service credit in this system for active service, performed prior to entering this system, of not less than one year in the Armed Forces of the United States or not less than one year in the Merchant Marine of the United States prior to January 1, 1950, excluding any period of that active service for which the judge is receiving, or is entitled to receive, a retirement allowance from any other retirement system supported wholly or in part by public funds. The service credit for that service shall be granted on the basis of one year of credit for each year of credited service in this system, but may not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent judicial service. A judge electing to receive credit for that service shall have at least one year of judicial service credited on the date of the election or the date of retirement. If the service described in this subdivision terminated with a dishonorable discharge, service credit in the system may not be granted under this section.

(b) For purposes of this section, a judge means a judge as defined under Section 75502 or a judge who has retired under Section 75521, 75522, or 75522.5.

(c) The retirement allowance of a retired judge who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election.

(d) A judge who elects to receive credit for service pursuant to this section shall contribute to the Judges' Retirement Fund II a sum equal to the actuarial present value of the increase in benefits due to the additional service, as determined by the chief actuary and approved by the board.

(e) An election by a judge to receive credit for service under this section shall be effective only if accompanied by a lump-sum payment or an authorization for payment, other than a lump-sum payment, in accordance with regulations adopted by the board.

SEC. 20. Section 75506.7 of the Government Code is amended to read:

75506.7. (a) A judge may receive service credit for the purposes of retirement under Section 75522, 75522.5, or 75560, or for purposes of calculating survivor benefits under Section 75590, for the time during which the judge was absent from their position as a judge by reason of service with the uniformed services, if the judge returns to judicial office within six months of separation from an eligible period of service in the uniformed services, as prescribed in Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, and the judge elects and satisfies the requirements of subdivision (b).

(b) In order to receive service credit under subdivision (a) a judge shall contribute an amount equal to the member contributions that would have been made by the judge during the absence as required under Sections 75061 and 75602. The judge's contributions shall be made prior to the judge's retirement and shall be effective only if accompanied by a lump-sum payment of the contributions due for the period during which the judge was absent due to service with the uniformed services. The judge's

payment of contributions shall not exceed the amount the judge would have been required to contribute had the judge not served in the uniformed services and remained in judicial office continuously throughout the eligible period of service in the uniformed services.

(c) Upon satisfaction of the requirements of subdivisions (a) and (b), the judge shall be credited with the service that would have accrued had the judge remained continuously employed and not undertaken service in the uniformed services.

(d) Upon satisfaction of the requirements of subdivisions (a) and (b), the judge shall receive the monetary credits that would have accrued under Section 75520 if the member had not served in the uniformed services and had remained in judicial office continuously.

(e) The system shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

(f) For the purposes of this section:

(1) "Uniformed services" means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

(2) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard, or a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the employment for the purpose of performing funeral honors duty as provided in Section 12503 of Title 10 or Section 115 of Title 32 of the United States Code.

SEC. 21. 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 the judge later becomes 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. 22. Section 75522.5 of the Government Code is amended to read:

75522.5. (a) On and after January 1, 2024, a judge who is not eligible to retire pursuant to Section 75522, in lieu of receiving their monetary credits pursuant to subdivision (b) of Section 75521, may elect to retire pursuant to this section, notwithstanding Section 7522.44, upon satisfying the eligibility requirements of this 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) A monthly allowance or optional settlement payable under this chapter to a surviving spouse of a judge who elected to retire pursuant to this section, and who died before receiving a retirement allowance, shall begin the date the judge would have been eligible to receive a retirement allowance under this section and shall continue until the death of the surviving spouse.

(i) This section shall only apply to judges who retire pursuant to this section before January 1, 2029.

SEC. 23. Section 75523 of the Government Code is amended to read:

75523. (a) The retirement allowance of retired judges who have elected to receive a monthly allowance under subdivision (d) of Section 75522 or who have retired for disability and are receiving an allowance under Section 75560.4 shall be adjusted effective in January of each year after a judge has been retired under this chapter for more than six months, to reflect any increase in the cost of living occurring after January 1 of the immediately preceding fiscal year. The United States city average of the "Consumer Price Index for all Urban Consumers," as published by the United States Bureau of Statistics, shall be used as the basis for determining changes in the cost of living.

(b) The retirement allowance of a retired judge who has elected to retire under Section 75522.5 shall be adjusted effective in January of each year after a judge has been retired under this chapter for more than six months, to reflect any increase in the cost of living occurring after January 1 of the immediately preceding fiscal year. The United States city average of the "Consumer Price Index for all Urban Consumers," as published by the United States Bureau of Statistics, shall be used as the basis for determining changes in the cost of living.

(c) An adjustment shall not be made unless the cost-of-living increase equals or exceeds 1 percent. The allowance shall not be increased more than 3 percent in a single year. Increases shall be compounded.

(d) The allowance shall not be decreased as a result of the cost-of-living adjustment.

(e) The board shall provide, by rule, any details needed for the implementation of this section.

SEC. 24. 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 subdivision (d) of 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. 25. 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 with a monthly allowance under subdivision (d) of Section 75522 or subdivision (d) of 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. 26. Section 75571 of the Government Code is amended to read:

75571. This section shall apply to any judge who retires on or before December 31, 2017.

(a) Optional settlement 1 consists of the right to have a retirement allowance paid to the judge until their death and if the judge dies before the judge receives 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.

(b) (1) Optional settlement 2 consists of the right to have a retirement allowance paid to the judge until the judge's death and thereafter to the judge's surviving spouse for life.

(2) If the judge's spouse predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, 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 is 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, and the retired judge elected this optional settlement to be effective on or after January 1, 2002, 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.

(c) (1) Optional settlement 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 judge's retirement allowance paid to the judge's surviving spouse for life.

(2) If the judge's spouse predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, 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 is 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, and the retired judge elected this optional settlement to be effective on or after January 1, 2002, 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.

(d) Optional settlement 4 consists of other benefits that are the actuarial equivalent of the judge's retirement allowance, that they may select subject to the approval of the board.

SEC. 27. 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, if, 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.

SEC. 28. Section 75590 of the Government Code, as amended by Section 4 of Chapter 531 of the Statutes of 2022, 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) On and after January 1, 2024, 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, provided that the death occurs prior to January 1, 2029, 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.

SEC. 29. Section 75590 of the Government Code, as added by Section 5 of Chapter 531 of the Statutes of 2022, is repealed.