

## **JUDGES' RETIREMENT SYSTEM II**

*California Public Employees' Retirement System*

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JUDGES' RETIREMENT SYSTEM II

**JUDGES' RETIREMENT SYSTEM II 2011**

CONTENTS

**Judges' Retirement Law II**

Article 1.	General Provisions, §§ 75500 - 75508 .....	JII-3
Article 2.	Early Retirement and Normal Retirement, §§ 75520 - 75528.....	JII-8
Article 3.	Community Property, §§ 75550 - 75553 .....	JII-11
Article 4.	Disability Retirement, §§ 75560 - 75564 .....	JII-13
Article 5.	Payment of Benefits, §§ 75570 - 75573 .....	JII-17
Article 6.	Employment of Retired Judges, §§ 75580 - 75583 .....	JII-18
Article 7.	Survivor and Insurance Benefits, §§ 75590 - 75592 .....	JII-20
Article 8.	Fund, §§ 75600 - 75613 .....	JII-22

**OTHER RELEVANT LAW SECTIONS**

**California Public Employees' Retirement Law (Excerpt)**

Chapter 7.	Compensation, § 20639.....	JII-27
------------	----------------------------	--------

**California Public Employees' Medical and Hospital Care Act (Excerpt)**

Chapter 1.	Public Employees' Health Benefits §§ 22814, 22816.31 .....	JII-28
------------	--	--------

**Government Code (Excerpt)**

**Title 8. The Organization and Government of the Courts**

Chapter 2.	The Judicial Council	
Article 2.	Assignment of Judges, §§ 68543.5, 68543.7.....	JII-30
Article 3.	Coordinated Educational Programs for the Judiciary § 68554.....	JII-31

<b>Index</b> .....		JII-33
--------------------	--	--------

JUDGES' RETIREMENT SYSTEM II

**JUDGES' RETIREMENT SYSTEM II**

**Chapter 11.5. Judges' Retirement System II**

*Article 1*

*General Provisions*

SECTION	
§ 75500.	Title
§ 75501.	Construction
§ 75502.	Definitions
§ 75505.	Administration of Law
§ 75506.	Member Statements
§ 75506.5.	Subordinate Judicial Officer
§ 75506.6.	Credit for Military Service
§ 75506.7.	Military Duty Service Credit Purchase—Member Contribution
§ 75506.8.	Military Duty Service Credit Purchase—Employer Contribution
§ 75507.	Allowance: Final Payment Following Death
§ 75508.	Beneficiary: Designation of Final Payment Following Death

*Article 2*

*Early Retirement and Normal Retirement*

§ 75520.	Monetary Credit Accrual
§ 75521.	Early Retirement
§ 75522.	Allowance: Benefit Factor Defined
§ 75523.	Cost of Living Adjustments (COLAs)
§ 75524.	Temporary Judge
§ 75525.	Deduction for Group Life Insurance
§ 75526.	Effect of Commission of a Felony
§ 75527.	Internal Revenue Code: Limitation on Benefits
§ 75528.	Concurrent Retirement

*Article 3*

*Community Property*

§ 75550.	Definitions
§ 75551.	Separation of Community Property
§ 75552.	Nonmember: Redeposit of Refund by Member
§ 75553.	Community Property Rights

*Article 4*

*Disability Retirement*

§ 75560.	Eligibility Requirements
§ 75560.1.	Disability and Disability Retirement, Defined
§ 75560.3.	Repealed
§ 75560.4.	Benefit Factor
§ 75560.6.	Medical Examination
§ 75562.	Effect of Commission of a Felony
§ 75563.	Disciplinary Proceeding
§ 75564.	Election Defeat

*Article 5*

*Payment of Benefits*

SECTION	
§ 75570.	Optional Settlement Election
§ 75571.	Optional Settlements
§ 75572.	Internal Revenue Code: Limitation on Benefits
§ 75573.	Optional Settlement: Waive Increase

*Article 6*

*Employment of Retired Judges*

§ 75580.	Employment after Disability Retirement
§ 75583.	Appointment as Master or Referee

*Article 7*

*Survivor and Insurance Benefits*

§ 75590.	Surviving Spouse: Election of Benefits
§ 75591.	Surviving Spouse Benefit: Judge Not Eligible to Retire
§ 75592.	Group Term Life Insurance

*Article 8*

*Fund*

§ 75600.	State Contribution
§ 75600.5.	State Contribution Rate
§ 75601.	Salary Deductions by the State
§ 75602.	Salary Deductions by Counties
§ 75603.	Increases in Contribution Rate
§ 75604.	Reduction of Benefits
§ 75605.	Employer "Pick-Up" of Contributions
§ 75605.1.	Calculation of Benefits—Voluntary Waiver of Salary Program
§ 75606.	Contribution Withdrawal: Effect of Candidacy, Nomination, or Appointment
§ 75607.	Authority to Invest
§ 75608.	Custodian of the Fund
§ 75609.	Deduction for Group Insurance or Credit Union Payments
§ 75610.	Administrative Expenses
§ 75611.	Overpayment of Contributions
§ 75611.5.	Write-Off of Specified Amounts
§ 75612.	Penalties for Failure to Submit Timely Reports
§ 75613.	Unclaimed Benefits

JUDGES' RETIREMENT SYSTEM II

**ARTICLE 1. GENERAL PROVISIONS**

**§ 75500. Title**

(a) This chapter shall be known and may be cited as the Judges' Retirement System II Law.

(b) Chapter 11 (commencing with Section 75000) shall not apply to this chapter and shall not apply to judges, as defined in Section 75502.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75501. Construction**

Unless the context otherwise requires, the definitions and general provisions set forth in this article govern the construction of this chapter.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75502. Definitions**

(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 his or her 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 his or her 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.

## JUDGES' RETIREMENT SYSTEM II

(f) "Contributions" means the accumulated deductions from the judge's salary under Sections 75601 and 75602. References to payment to a judge of his or her 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.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1995, Ch. 829; and by Stats. 2001, Ch. 118, effective 7/30/01.)

### **§ 75505. Administration of Law**

(a) This chapter shall be administered and governed pursuant to the Public Employees' Retirement Law to the same extent and with the same effect as if those provisions are contained in this chapter, except for those provisions that provide for the payment of an allowance or other benefit and except for those provisions that conflict with any provision of this chapter.

(b) All payments from the Judges' Retirement System II Fund shall be made upon warrants drawn by the Controller upon demands by the Board of Administration of the Public Employees' Retirement System.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75506. Member Statements**

The board shall, annually, send each judge a member statement which shall include information regarding accrued service credit, accrued monetary credits, retirement eligibility dates, and other pertinent information.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

#### **§ 75506.5. Subordinate Judicial Officer**

(a) Any judge may elect, by written election filed with the board at any time prior to retirement, to make contributions, and receive service credit for, all of the time he or she served as a full-time subordinate judicial officer, as defined in Section 71601, prior to becoming a judge, excluding any period of time for which the judge is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

## JUDGES' RETIREMENT SYSTEM II

(b) A judge electing to receive credit for service pursuant to this section shall, at the time of filing his or her election, pay into the Judges' Retirement Fund II, a sum equal to the actuarial present value of the increase in benefits due to the additional service. The amount shall be determined by the board in accordance with this section.

(Added by Stats. 2001, Ch. 433.)

### **§ 75506.6. Credit for Military Service**

(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 or 75522.

(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.

(Added by Stats. 2004, Ch. 231.)

### **§ 75506.7. Military Duty Service Credit Purchase—Member Contribution**

(a) A judge may receive service credit for the purposes of retirement under Section 75522 or 75560, or for purposes of calculating survivor benefits under Section 75590, for the time during which he or she was absent from his or her

## JUDGES' RETIREMENT SYSTEM II

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.

(Added by Stats. 2008, Ch. 626.)

**§ 75506.8. Military Duty Service Credit Purchase—Employer Contribution**

When a judge that satisfies the requirements of Section 75506.7 makes the contributions required to receive service credit for service with the uniformed services, the state shall contribute an amount equal to the contributions that would have been made by the state during the judge's absence. The state's contribution shall be based upon the judge's compensation earnable and the contribution rates in effect at the commencement of the absence.

(Added by Stats. 2008, Ch. 626.)

**§ 75507. Allowance: Final Payment Following Death**

(a) Any allowance payable to a retired judge or to a surviving spouse or to an eligible surviving child that has accrued and remained unpaid at the time of the death of the judge or the death of a surviving spouse or surviving child, or any unclaimed warrant issued prior to the date of death and returned to the board, shall be paid pursuant to the following order:

(1) The survivor entitled to an allowance payable by the board.

(2) The beneficiary designated by the surviving spouse, eligible surviving child, or retired judge if there is no eligible survivor.

(3) The estate of the deceased, if there is no one entitled to payment under paragraph (1) or (2). The payment to the estate shall be paid to either the estate of the deceased or the duly authorized representative or representatives of the estate when this system receives a court order appointing an executor, administrator, or personal representative.

(4) If the estate does not require probate and the deceased has a trust, the payment may, in the judgment of the board, be paid to the successor trustee named in the trust.

(5) If the estate does not require probate and the deceased does not have a trust, the payment may, in the judgment of the board, be paid to the beneficiary or beneficiaries of the deceased named in a valid will.

(b) If there is no qualifying beneficiary pursuant to paragraphs (1) to (5), inclusive, of subdivision (a), the payment shall be paid to the surviving next of kin of the deceased pursuant to the order of distribution specified in Section 21493.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2009, Ch. 130.)

**§ 75508. Beneficiary: Designation of Final Payment Following Death**

The surviving spouse or eligible surviving child of a deceased judge who is receiving a monthly allowance from the system, or a retired judge, if there is no spouse or eligible child, may designate a beneficiary to receive the pro rata allowance remaining payable in the month of his or her death. The designation may be made, changed, or revoked at any time, and shall be in writing and filed with the system.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

JUDGES' RETIREMENT SYSTEM II

**ARTICLE 2. EARLY RETIREMENT AND NORMAL RETIREMENT**

**§ 75520. Monetary Credit Accrual**

(a) A judge shall, monthly, accrue monetary credits equal to 18 percent of the judge's monthly salary.

(b) To the total monetary credits in each judge's account, an additional amount shall be credited monthly at a rate, not less than zero, equal to the annual net earnings rate achieved by the Judges' Retirement System II Fund on its investments of moneys in the Judges' Retirement System II Fund during the preceding fiscal year.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1998, Ch. 212; and by Stats. 1999, Ch. 785.)

**§ 75521. Early Retirement**

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

(b) 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 his or her 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 66540) of Chapter 2 and are eligible for benefits provided under Section 22814.

(d) After a judge has withdrawn his or her accumulated contributions or the amount of his or her monetary credits upon leaving judicial office, the service shall not count in the event he or she later becomes a judge again, until he or she 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.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1996, Ch. 482; by Stats. 1999, Ch. 785; by Stats. 2001, Ch. 433; and by Stats. 2004, Ch. 69, effective 6/24/04.)

**§ 75522. Allowance: Benefit Factor Defined**

(a) A judge is eligible to retire pursuant to this section 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 five years of service.

## JUDGES' RETIREMENT SYSTEM II

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

(c) A judge who retires pursuant to this section shall, within 30 days after the effective date of the retirement, elect to receive either the benefits provided by subdivision (d) or the benefits provided by subdivision (e). 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.

(d) The judge may elect to receive for life a monthly retirement allowance equal to the benefit factor multiplied by the judge's final compensation multiplied by the number of years of service credit.

(1) The benefit factor for a judge eligible to retire pursuant to this section equals 3.75 percent per year of service.

(2) In no event shall the retirement allowance at the time of retirement exceed 75 percent of the judge's final compensation.

(e) The judge may elect to receive the amount of his or her 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. Under rules adopted by the board, the judge may elect to receive that amount in a single payment, or may direct that it be paid in an annuity of actuarially equivalent value for the judge's life or in one of the optional forms provided for in Section 75571.

(f) If a retired judge fails or refuses to make an election pursuant to subdivision (c) within the time allowed, he or she shall be deemed to have elected to receive a monthly retirement allowance under subdivision (d).

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1998, Ch. 212.)

### **§ 75523. Cost of Living Adjustments (COLAs)**

(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) No adjustment shall 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.

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

## JUDGES' RETIREMENT SYSTEM II

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

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1999, Ch. 785.)

### **§ 75524. Temporary Judge**

Any designation as a temporary judge or any assignment by the Chairperson of the Judicial Council shall be disregarded for purposes of this chapter. For the purposes of this chapter, no person shall acquire status as a judge, nor shall any person's status as a judge be affected, by that designation or assignment.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75525. Deduction for Group Life Insurance**

Retired judges, and beneficiaries, who are entitled to receive allowances under this chapter, may authorize deductions to be made from their retirement allowance payments, in accordance with regulations established by the board for payment of group life insurance premiums for a group life insurance plan approved by the Director of Finance.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75526. Effect of Commission of a Felony**

A judge who pleads guilty or no contest or is found guilty of a crime committed while holding judicial office that is punishable as a felony under California or federal law and which either involves moral turpitude under that law or was committed in the course and scope of performing the judge's duties, and the conviction becomes final shall not receive any benefits from the system, except that the amount of his or her contributions to the system shall be paid to him or her by the system.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75527. Internal Revenue Code: Limitation on Benefits**

Notwithstanding any other provision of this chapter, the benefits payable to any person shall be subject to the limitations set forth in the Internal Revenue Code.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75528. Concurrent Retirement**

A judge must have a minimum of six years of judicial service to be eligible for benefits provided by retiring concurrently from this system and the Public Employees' Retirement System or a retirement system subject to the County Employees Retirement Law of 1937 pursuant to Section 20639 or 31840.8.

(Added by Stats. 2001, Ch. 433.)

JUDGES' RETIREMENT SYSTEM II

**ARTICLE 3. COMMUNITY PROPERTY**

**§ 75550. Definitions**

In this article, unless the context indicates otherwise:

(a) "Member" means a judge as defined in Section 75502.

(b) "Nonmember" means the spouse or former spouse of a member, who as a result of petitioning the court for the division of community property has been awarded a distinct and separate account reflecting specific monetary credits, specific credited service, and accumulated contributions.

(c) "Court" means the court with jurisdiction over the marriage.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75551. Separation of Community Property**

(a) If a member's marriage is dissolved or a member and his or her spouse are legally separated while the member is an active judge, the court shall make the following determinations:

(1) The number of years of service that accrued during the marriage of the member and nonmember, down to the date of their separation.

(2) The date of the parties' separation.

(3) If the member had been a judge for fewer than five years on the date of separation, the court shall determine the member's and nonmember's shares of the judge's contributions to the fund, based on Section 2610 of the Family Code, and on the law generally applicable to property earned during marriage.

(4) If the member had been a judge for five years or more on the date of separation, the court shall determine the member's and nonmember's shares of the judge's monetary credits that have accrued pursuant to Section 75520, based on Section 2610 of the Family Code, and on the law generally applicable to property earned during marriage. The monetary credits include the credits computed pursuant to subdivision (b) of Section 75520 computed to the date the court finds appropriate.

(b) The determinations made pursuant to paragraphs (1) and (2) and pursuant to paragraph (3) or (4) of subdivision (a) shall be included in the judgment of dissolution or separation. The system shall deem any portion of the judge's contributions or of the judge's monetary credits that were not allocated by the judgment to the nonmember, to be allocated to the member.

(c) Promptly after receiving a certified copy of a judgment dissolving the marriage of a member or legally separating a member and nonmember and allocating shares of the member's contributions pursuant to paragraph (3) of subdivision (a), the fund shall pay to the nonmember the amount allocated to him or her in the judgment. The nonmember shall have no further interest in the fund.

(d) Promptly after receiving a certified copy of a judgment dissolving the marriage of a member or legally separating a member and nonmember and allocating shares of the member's monetary credits pursuant to paragraph (4) of

## JUDGES' RETIREMENT SYSTEM II

subdivision (a), the fund shall pay to the nonmember the amount allocated to him or her in the judgment. The nonmember shall have no further interest in the fund.

(e) The amount of the payment pursuant to subdivision (c) or (d) shall be subtracted from the member's monetary credits as computed pursuant to Section 75520. Until the amount is redeposited pursuant to Section 75552, the additional credits accorded pursuant to subdivision (b) of Section 75520 shall be computed on the amount so reduced.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1996, Ch. 482.)

### **§ 75552. Nonmember: Redeposit of Refund by Member**

(a) After payment of a portion of the member's contributions to a nonmember pursuant to subdivision (b) of Section 75551, the member may redeposit the full amount in the fund at any time before he or she retires or otherwise leaves judicial office. The redeposit shall include interest at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20654 from the date of payment to the date of redeposit. A partial redeposit shall not be accepted.

(b) After payment of a portion of the member's monetary credits to a nonmember pursuant to subdivision (c) of Section 75551, the member may redeposit the full amount in the fund at any time before he or she retires or otherwise leaves judicial office. The redeposit shall include interest at the greater of: (1) the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20654 from the date of payment to the date of redeposit; or (2) the compounded amounts that would have been credited to the member's monetary account pursuant to subdivision (b) of Section 75520 had the payment not been made to the nonmember. A partial redeposit shall not be accepted.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75553. Community Property Rights**

(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, he or she shall be paid the dollar amount of his or her contributions to the system minus the amount paid to the nonmember, and no other amount.

JUDGES' RETIREMENT SYSTEM II

(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 his or her monetary credits; or (2) is entitled, pursuant to subdivision (b) or (c) of Section 75521 to receive only the amount of his or her monetary credits, the member shall be paid the amount of his or her 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 is eligible for retirement pursuant to Section 75522 and elects, pursuant to subdivision (d) of Section 75522, to receive a monthly allowance, the judge's monthly allowance shall equal the monthly allowance that would have been payable pursuant to subdivision (d) of Section 75522 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).

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**ARTICLE 4. DISABILITY RETIREMENT**

**§ 75560. Eligibility Requirements**

No judge shall be eligible to be retired for disability unless the judge is credited with at least five years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75560.1. Disability and Disability Retirement, Defined**

(a) Any judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability that is or is likely to become permanent may, with his or her consent and with the approval of the Chief Justice or Acting Chief Justice and the Commission on Judicial Performance, be retired from office. The consent of the judge shall be made on a written application to the Commission on Judicial Performance, signed by the judge or

## JUDGES' RETIREMENT SYSTEM II

a family member or legal representative acting on the judge's behalf. The retirement shall be effective upon approval by the designated officers, except as provided in subdivision (b). A certificate evidencing the approval shall be filed with the Secretary of State. Upon the filing of the certificate, a successor shall be appointed to fill the vacancy.

(b) Any judge who dies after executing an application evidencing his or her consent that has been received in the office of the commission and before the approval of both of the designated officers has been obtained shall be deemed to have retired on the date of his or her death if the designated officers, prior to the filling of the vacancy created by the judge's death, file with the Secretary of State their certificate of approval.

(c) No retirement under this section may be approved unless a written statement by a physician or psychiatrist that he or she has personally examined the judge applying for retirement under this section and that he or she is of the opinion that the judge is unable to discharge efficiently the duties of the judge's office by reason of a mental or physical disability that is or is likely to become permanent is presented to the persons having the responsibility to approve or disapprove the retirement.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75560.3. Repealed**

(Repealed by Stats. 2001, Ch. 745, effective 10/12/01.)

Note: The text of former Section 75560.3 follows:

#### **§ 75560.3. Commission on Judicial Performance—Annual Report**

(a) The Commission on Judicial Performance shall annually submit to the Governor and the Legislature a report on the incidence of ordered, requested, and granted disability retirements in the preceding fiscal year.

(b) The report shall include the following:

(1) The number of years the affected judges have served as a judge on the date of receipt of the application for disability retirement and on the effective date of the disability retirement.

(2) The age of the judge on the date of receipt of the application for disability retirement and on the effective date of his or her disability retirement.

(3) The physical or mental impairment that was the basis for the application by the judge for disability retirement, for the granted disability retirement, or for the ordered disability retirement, using the following categories to describe the impairment:

- (A) Orthopedic.
- (B) Psychological.
- (C) Cardiovascular.
- (D) Internal.
- (E) Neurological.
- (F) Other.

(4) Any other information deemed relevant by the Commission on Judicial Performance.

(Added by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94.)

## JUDGES' RETIREMENT SYSTEM II

### **§ 75560.4. Benefit Factor**

(a) A judge who retires for disability shall receive a retirement allowance in an amount equal to the lower of the following:

(1) The benefit factor under subdivision (d) of Section 75522 multiplied by the judge's final compensation on the effective date of the disability retirement, multiplied by the number of years of service the judge would have been credited if the judge's service had continued to the age the judge would have first been eligible to retire under subdivision (a) of Section 75522.

(2) Sixty-five percent of the judge's final compensation on the effective date of the disability retirement.

(b) Notwithstanding subdivision (a), the retirement allowance of a judge who retires for disability shall equal 65 percent of the judge's final compensation on the effective date of the disability retirement regardless of the judge's age or length of service, if the Commission on Judicial Performance determines that the disability is predominantly a result of injury arising out of and in the course of judicial service.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2006, Ch. 538.)

### **§ 75560.6. Medical Examination**

The Commission on Judicial Performance, in its discretion, but not more often than once every two years, may require any judge who is receiving an allowance under this article and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians and surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of the justice or judge except while under assignment to a court by the Chairperson of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. Section 68543.5 is applicable to the judge.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75562. Effect of Commission of a Felony**

A judge who applies for disability retirement and against whom there is pending a criminal charge of the commission of, or who has been convicted of, a felony under California or federal law, allegedly committed or committed while holding judicial office, prior to the approval of the application:

## JUDGES' RETIREMENT SYSTEM II

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75560.1 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75563. Disciplinary Proceeding**

A judge against whom there is pending a disciplinary proceeding that could lead to his or her removal from office or who has been removed from office for judicial misconduct, prior to the approval of his or her application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75560.1 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75564. Election Defeat**

A member who is defeated at an election and who either had submitted, prior to the date of the election, an application for disability retirement or submits, on or after the date of the election, an application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75560.1 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

JUDGES' RETIREMENT SYSTEM II

**ARTICLE 5. PAYMENT OF BENEFITS**

**§ 75570. Optional Settlement Election**

(a) In lieu of the retirement allowance under subdivision (d) of Section 75522 for his or her life alone, a judge who elects to retire with a monthly allowance under subdivision (d) of Section 75522 may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his or her 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.

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

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75571. Optional Settlements**

(a) Optional settlement one consists of the right to have a retirement allowance paid him or her until his or her death and if he or she dies before he or she receives the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her surviving spouse or estate.

(b)(1) Optional settlement two consists of the right to have a retirement allowance paid him or her until his or her death and thereafter to his or her 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 annulled or if the retired judge and his or her spouse are legally separated and the judgment dividing their community property awards the total interest in this system to the retired judge, 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 three consists of the right to have a retirement allowance paid him or her until his or her death, and thereafter to have one-half of his or her retirement allowance paid to his or her 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

## JUDGES' RETIREMENT SYSTEM II

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 annulled or if the retired judge and his or her spouse are legally separated and the judgment dividing their community property awards the total interest in this system to the retired judge, 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 four consists of other benefits that are the actuarial equivalent of his or her retirement allowance, that he or she may select subject to the approval of the board.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2001, Ch. 433.)

### **§ 75572. Internal Revenue Code: Limitation on Benefits**

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

(Added by Stats. 1995, Ch. 829.)

### **§ 75573. Optional Settlement: Waive Increase**

A judge who elects to receive optional settlement two or three may concurrently and irrevocably elect to waive the provision for an increase to his or her allowance, as specified in subdivisions (b) and (c) of Section 75571, and shall, instead, have his or her allowance based upon the waiver of this benefit.

(Added by Stats. 2001, Ch. 433.)

## **ARTICLE 6. EMPLOYMENT OF RETIRED JUDGES**

### **§ 75580. Employment after Disability Retirement**

(a) If a judge who is retired for disability engages in the practice of law or other gainful occupation that requires the discharge of duties substantially similar to

## JUDGES' RETIREMENT SYSTEM II

those duties that the judge was found, pursuant to Section 75560.1, to be unable to perform due to mental or physical disability, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section.

(b) If a retired judge becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement for disability, the retirement allowance otherwise payable shall, during the time he or she is entitled to receive that salary or other compensation, be reduced by the amount of that salary or compensation.

(c) A judge who is retired for disability may, without loss or reduction in allowance, engage in the practice of law or any other gainful occupation that does not require the discharge of duties substantially similar to those duties the judge was found, pursuant to Section 75560.1, to be unable to perform due to mental or physical disability, other than a public office, as long as the compensation earned in any month when combined with the judge's allowance does not exceed 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, and the retirement allowance otherwise payable to the judge shall be reduced by the amount of any earning in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(d) Persons affected by this section shall report all compensation earned in a form and manner required by the board under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

(e) When a judge affected by subdivision (c) reaches the age at which the judge would be eligible to retire for services pursuant to Section 75522 had the judge not retired for disability, the judge's retirement allowance shall be made equal to the amount it would be if not reduced pursuant to this section, and may not again be modified for any cause.

(f) A judge who is retired for disability pursuant to this chapter or becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement for disability pursuant to this chapter is not eligible to receive service credit in another public retirement system or pursuant to this chapter or to be reinstated to this system.

(g) The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

JUDGES' RETIREMENT SYSTEM II

**§ 75583. Appointment as Master or Referee**

(a) Any judge retired pursuant to this chapter who is appointed by the Supreme Court or any court of appeal, or division thereof, to act as a master or referee in any proceeding pending before any such court or before the Commission on Judicial Performance, shall be paid while so acting, in addition to his or her retirement allowance (taken without reduction on account of any election pursuant to Article 6 (commencing with Section 75570)) the difference, if any, between the retirement allowance and the compensation of a judge of the court from which he or she retired.

(b) When appointed to act as referee in a county other than that in which he or she resides, he or she shall also be allowed his or her necessary expenses for travel, board, and lodging incurred in the discharge of that appointment.

(c) The extra compensation and expenses, if any, shall be chargeable to the state.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**ARTICLE 7. SURVIVOR AND INSURANCE BENEFITS**

**§ 75590. Surviving Spouse: Election of Benefits**

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

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

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

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

(c)(1) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (A) died in office, (B) had attained the minimum age for service retirement applicable to the judge preceding his or her 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

## JUDGES' RETIREMENT SYSTEM II

the date of death and had elected optional settlement 2 specified in subdivision (b) of Section 75571.

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

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

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

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1999, Ch. 671; by Stats. 2000, Ch. 1002; and by Stats. 2003, Ch. 10, effective 5/14/03.)

### **§ 75591. Surviving Spouse Benefit: Judge Not Eligible to Retire**

(a) A surviving spouse of a judge who dies before becoming eligible to retire pursuant to subdivision (a) of Section 75522 shall receive the greater of one of the following:

(1) 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.

(2) Three times the judge's annual salary at the time of his or her death. The amount shall be paid in equal monthly installments for a period of 36 months.

(b) If there is no surviving spouse, the greater of the amounts prescribed in subdivision (a) shall be paid to the surviving children of the judge; or if none, to the judge's designated beneficiary, or if none, to the judge's estate.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75592. Group Term Life Insurance**

Each judge shall receive the same group term life insurance benefits as is granted to other constitutional officers and state managerial employees. The Administrative Office of the Courts shall administer the insurance benefit.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

JUDGES' RETIREMENT SYSTEM II

**ARTICLE 8. FUND**

**§ 75600. State Contribution**

There is in the State Treasury, subject to the control of the board, a trust fund known as the Judges' Retirement System II Fund. The fund shall receive all assets paid into it including, without limitation, judges' contributions made pursuant to Sections 75601 and 75602 and the state's contributions made pursuant to Section 75600.5. All retirement allowances payable by law to judges to whom this chapter is applicable shall be paid from that fund. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years, for payments which shall be made upon warrants drawn by the Controller upon demands made by the board.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75600.5. State Contribution Rate**

(a) The Controller shall at the end of each month ascertain the aggregate amount of the annual salaries, not including the additional compensation pursuant to Section 68203.1, of all judges covered by the Judges' Retirement System II, and out of the General Fund he or she shall transfer monthly into the Judges' Retirement System II Fund a sum equal to 18.8 percent of one-twelfth of the aggregate amount of those salaries.

(b) As of June 30 of the first year this chapter is in effect, and annually thereafter, the board shall make an actuarial investigation into the fund's experience, the ages of member judges, and other facts necessary to determine the actuarial soundness of the fund. Based on its investigation, the board shall determine the state contribution necessary to maintain or restore the actuarial soundness of the fund, stated as a percentage of judges' salaries.

(c) The state's contribution as fixed under this chapter shall be adjusted thereafter from time to time in the annual Budget Act according to the following method. As part of the proposed budget submitted pursuant to Section 12 of Article IV of the California Constitution, the Governor shall include the contribution rate submitted by the board pursuant to subdivision (b). The Legislature shall adopt the contribution rate and authorize the appropriation in the Budget Act.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2001, Ch. 118, effective 7/30/01.)

**§ 75601. Salary Deductions by the State**

Except as provided in Section 75605, the Controller shall at the end of each month deduct 8 percent from the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each justice of the Supreme Court and of the courts of appeal and of the portion paid by the state of the monthly

## JUDGES' RETIREMENT SYSTEM II

salary of each judge of the superior court and shall cause this amount to be paid into the Judges' Retirement System II Fund.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2001, Ch. 118, effective 7/30/01.)

### **§ 75602. Salary Deductions by Counties**

Except as provided in Section 75605, the Controller or the auditor of each county shall deduct 8 percent from the portion paid by a county, or the Controller and the auditor, if appropriate, of the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each judge of the superior court and cause this amount to be paid into the Judges' Retirement System II Fund.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1998, Ch. 931, effective 9/28/98; by Stats. 2001, Ch. 118, effective 7/30/01; and by Stats. 2002, Ch. 784.)

### **§ 75603. Increases in Contribution Rate**

The Legislature reserves the right to increase the rates of contribution prescribed by Sections 75601 and 75602 in the amounts as it may find appropriate.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75604. Reduction of Benefits**

The Legislature reserves the right to reduce any benefits applicable to any person who becomes a judge who is subject to this chapter.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

### **§ 75605. Employer "Pick-Up" of Contributions**

(a) Notwithstanding any other provision of law, the state and the county may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal contributions required to be deducted under Sections 75601 and 75602, inclusive, and paid into the Judges' Retirement System II Fund. The payments shall be reported as employer-paid normal contributions and shall be credited to the judge's account.

(b) Nothing in this section shall be construed to limit the authority of the state or the county to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by a judge, as authorized by this section.

(c) This section shall not affect the computation of a judge's retirement allowance pursuant to this chapter.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

JUDGES' RETIREMENT SYSTEM II

**§ 75605.1. Calculation of Benefits—Voluntary Waiver of Salary Program**

Calculations of retirement benefits and monetary credit under this chapter for any judge in the Voluntary Waiver of Salary Program, as described in paragraph (4) of subdivision (b) of Section 68106, shall include salary and contributions that would have been paid had the judge not been in the program. The state shall pay the costs that result from the increased benefits and monetary credits.

(Added by Stats. 2009, Ch. 240.)

**§ 75606. Contribution Withdrawal: Effect of Candidacy, Nomination, or Appointment**

(a) A judge who has filed a declaration of candidacy for election or reelection to a judicial office may not withdraw his or her contributions under Section 75520 until after the election. If a judge is elected or reelected to a judicial office, he or she may not withdraw the contributions until that time as the judge has declined to accept the office or has ceased to hold the office to which he or she has been elected.

(b) A judge who has been appointed, commissioned, or nominated to a judicial office of this state may not withdraw his or her contributions under Section 75520 until the judge has declined to serve or terminated his or her service in the latter office.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2006, Ch. 118.)

**§ 75607. Authority to Invest**

The board may invest the money contained in the Judges' Retirement System II Fund in the same manner and subject to the same restrictions as investments of the Public Employees' Retirement Fund.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75608. Custodian of the Fund**

The Treasurer is the custodian of the Judges' Retirement System II Fund. At the end of each month the board shall ascertain the written notices of voluntary retirement and the written certificates of involuntary retirement that have been filed with the Judges' Retirement System II and cause warrants to be drawn upon the State Treasury in favor of each retired judge for the amount of the retirement allowance to which he or she is entitled.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75609. Deduction for Group Insurance or Credit Union Payments**

A retired judge or the surviving spouse of a judge, entitled to receive an allowance pursuant to this chapter, may authorize deductions to be made from the allowance, in accordance with regulations established for the payment of group insurance premiums and other premiums provided for under Section 1157, as well as shares or obligations of any regularly chartered credit union.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75610. Administrative Expenses**

Notwithstanding any other provision of law, all expenses of administration of this article shall be paid by appropriation from the Judges' Retirement System II Fund.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75611. Overpayment of Contributions**

If the board determines that there has been an overpayment of contributions or that any amount not required to be paid under this chapter has been paid by a judge, the board shall refund the amount of the overpayment or excess payment to the judge. So much money as may be necessary is hereby appropriated from the Judges' Retirement System II Fund to the board for the purpose of making refunds pursuant to this section.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75611.5. Write-Off of Specified Amounts**

(a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars (\$250) or less.

(b) Notwithstanding Section 75611, when there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars (\$50) or less remaining posted to a member's individual account, or an overpayment of fifty dollars (\$50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars (\$250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars (\$250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars (\$5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

JUDGES' RETIREMENT SYSTEM II

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 13943.2.

(Added by Stats. 2004, Ch. 231.)

**§ 75612. Penalties for Failure to Submit Timely Reports**

(a) The board may assess a county a reasonable amount to cover costs incurred because of the county's failure to submit reports within 30 days of the date the reports are due. The payments of the assessments shall be credited to the Judges' Retirement System II Fund.

(b) The board may charge interest on the amount of any payment due and unpaid by a county until payment is received. Interest shall be charged at a rate approximating the average rate received on moneys then being invested. The interest charged shall be deemed interest earnings in the year in which received.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

**§ 75613. Unclaimed Benefits**

(a) Whenever a person entitled to payment of a member's contributions or any other benefit fails to claim the payment or cannot be located or a warrant in payment is canceled pursuant to Section 17070, the amount owed from the Judges' Retirement System II Fund shall be administered pursuant to subdivision (c).

(b) Whenever the amount of a benefit payable by this program cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be ascertained, the contributions of the member on whose account the benefit is payable shall be administered pursuant to subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the fund and held for the claimant without accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of the redeposit, they shall revert to and become a part of the fund. Transfer to the fund shall be made as of the June 30 next following the expiration of the four-year period.

(d) The board may at any time after transfer of proceeds to the fund upon receipt of proper information satisfactory to it, return the proceeds to the credit of the claimant, to be administered in the manner provided under this system.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

JUDGES' RETIREMENT SYSTEM II

OTHER RELEVANT LAW SECTIONS

**CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT LAW**

**Chapter 7. Compensation**

**§ 20639. Final Compensation—Concurrent Retirement with Judges',  
Legislators', or Teachers' Retirement Systems**

The compensation earnable during any period of service as a member of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, or the Defined Benefit Program of the State Teachers' Retirement Plan shall be considered compensation earnable as a member of this system for purposes of computing final compensation for the member, if he or she retires concurrently under both systems.

A member shall be deemed to have retired concurrently under this system and under the Defined Benefit Program of the State Teachers' Retirement Plan, if the member is enrolled as a disabled member under the Defined Benefit Program of the State Teachers' Retirement Plan and for retirement under this system on the same effective date.

(Added by Stats. 1978, Ch. 900; amended by Stats. 1980, Ch. 1168, effective 9/29/80; and by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 939; and by Stats. 2001, Ch. 433.)

**PUBLIC EMPLOYEES' MEDICAL AND  
HOSPITAL CARE ACT**

**Chapter 1. Public Employees' Health Benefits**

**ARTICLE 4. ELIGIBILITY**

**§ 22814. Inactive Members of JRS & JRS II**

(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 his or her coverage and the coverage of any family members for the duration of the leave of absence, upon his or her 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 his or her 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 Personnel Administration.

(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.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2010, Ch. 639.)

Note 1: See Note 1 to Section 22808 for history of former Section 22816 (relative to subdivision (a)).

Note 2: Former Section 22816.31 (relative to subdivision (b)) was added by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94; and amended by Stats. 1996, Ch. 482.

**§ 22816.31. Repealed**

(Repealed by Stats. 2004, Ch. 69, effective 6/24/04.)

Note 1: Former Section 22816.31 was incorporated into Section 22814(b).

Note 2: The text of former Section 22816.31 follows:

**§ 22816.31. Health Benefit Coverage**

Any judge who retires under the Judges' Retirement System II, pursuant to subdivision (b) of Section 75521, and who has not attained the age of 65 years shall be entitled to have his or her coverage and the coverage of any family members continued upon assuming payment of the contributions otherwise required of the employer on account of his or her enrollment. Any election to continue coverage under this section

## JUDGES' RETIREMENT SYSTEM II

shall be made within 60 days of permanent separation. The judge shall also pay an additional 2 percent of the contribution payments required to be paid by the judge to cover the administrative costs incurred by the system in administering the program provided by this section. A retired judge who cancels that coverage may not reenroll. Upon attaining the age of 65 years a retired judge who has participated in this program and has continuous and uninterrupted coverage shall be entitled to the applicable employer contribution.

(Added by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94; amended by Stats. 1996, Ch. 482.)

## **TITLE 8. THE ORGANIZATION AND GOVERNMENT OF THE COURTS**

### **Chapter 2. The Judicial Council**

#### **ARTICLE 2. ASSIGNMENT OF JUDGES**

##### **§ 68543.5. Compensation of Retired Judge Assigned to Sit in Court**

(a) Whenever a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. Whenever a retired judge of a justice court who is not a member of the Judges' Retirement System nor the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, or the compensation specified in Section 68541, whichever is greater. The compensation shall be paid by the Judicial Council out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

(b) If a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which the retired judge is assigned shall be paid to the Judges' Retirement Fund or the Judges' Retirement System II Fund, as applicable.

(c) During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the California Victim Compensation and Government Claims Board that are applicable to officers of the state provided for in Article VI of the California Constitution while traveling on official state business.

(d) Notwithstanding subdivisions (a), (b), and (c) pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

(Added by Stats. 1961, Ch. 681; amended by Stats. 1961, Ch. 1773; by Stats. 1967, Ch. 17; by Stats. 1971, Ch. 1049; by Stats. 1980, Ch. 51; by Stats. 1984, Ch. 1580 and Ch. 1586, operative 7/1/85; by Stats. 1988, Ch. 1310; by Stats.

## JUDGES' RETIREMENT SYSTEM II

1989, Ch. 1389, operative 7/1/90; by Stats. 1990, Ch. 187, effective 6/29/90, operative 7/1/90; by Stats 1991, Ch. 90, effective 6/30/91, Ch. 189, effective 7/29/91, and Ch. 613; by Stats. 1992, Ch. 696, effective 9/15/92; by Stats. 1993, Ch. 158, effective 7/21/93; by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94; by Stats. 2002, Ch. 661; and by Stats. 2006, Ch. 538.)

### **§ 68543.7. Availability and Payment of Retired Judges Sitting on Assignment**

Subject to funding in the Budget Act, the Chief Justice shall make available by assignment the equivalent of 50 additional full-time judges. A judge retired under the Judges' Retirement System or the Judges' Retirement System II sitting on assignment in a trial court shall be paid in the amount of 92 percent of 1/250th of the annual salary of a judge of the court to which he or she is assigned for each day of service in the court.

(Added by Stats. 1991, Ch. 90, effective 6/30/91; amended by Stats. 1991, Ch. 189, effective 7/29/91; by Stats. 1992, Ch. 696, effective 9/15/92; by Stats. 1993, Ch. 158, effective 7/21/93; by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94.)

## **ARTICLE 3. COORDINATED EDUCATIONAL PROGRAMS FOR THE JUDICIARY**

### **§ 68554. Study Leave for Judges**

Notwithstanding subdivisions (f) and (g) of Section 1770, the Judicial Council may grant any judge a leave of absence for a period not to exceed one year for the purpose of permitting study which will benefit the administration of justice and the individual's performance of judicial duties, upon a finding that the absence will not work to the detriment of the court. During a study leave, the judge shall receive no compensation, nor shall the period of absence count as service toward retirement, but the time of leave shall not toll the term of office.

(Added by Stats. 1992, Ch. 1199, effective 9/30/92.)



JUDGES' RETIREMENT SYSTEM II

**Judges' Retirement System II Index**

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**A**

**ADMINISTRATION OF PROVISIONS, § 75505**

**ASSIGNMENT OF RETIRED JUDGE TO SIT**

Availability and payment, § 68543.7  
Compensation, § 68543.5

**B**

**BENEFITS**

**Deductions**

Purposes for which deductions authorized,  
§ 75609

**Factor**

Definition of benefit factor, § 75502, 75522  
Disability retirement, § 75560.4

**Insurance**

Group term life insurance, § 75592  
Limitation on benefits, § 75527, 75572

**Optional settlements**

Election, § 75570  
Enumeration of settlement options, § 75571  
Waiving increase, § 75573

**Payments, § 75570 to 75573**

**Reduction in benefits**

Legislative reservation of right to reduce, § 75604

**Salary waiver**

Voluntary waiver of salary program  
Effect on benefits, § 75605.1

**Survivor benefits**

Spouse  
Election of benefits, § 75590  
Ineligibility of judge to retire, § 75591

**Unclaimed benefits, § 75613**

Write-off of specified erroneous amounts, § 75611.5

**BOARD OF ADMINISTRATION**

Definition of board, § 75502

**C**

**COMMUNITY PROPERTY, § 75550 to 75553**

**Court**

Defined, § 75550

Determining member rights, § 75553

**Member**

Defined, § 75550

**Nonmember**

Defined, § 75550

Redeposits, § 75552

Separation of community property, § 75551

Determining member rights, § 75553

**COMPENSATION**

**Final compensation**

Concurrent retirement with other retirement  
systems, § 20639

**COMPENSATION—Cont'd**

**Final compensation—Cont'd**

Defined, § 75502

Retired judges assigned to sit, § 68543.5

**CONSTRUCTION AND INTERPRETATION OF PROVISIONS, § 75501**

**CONTRIBUTIONS**

Defined, § 75502

**Fund**

State contribution, § 75600  
Rate, § 75600.5

**Military service credit, purchase**

Employer contributions, § 75506.8  
Member contributions, § 75506.7

**Overpayments**

Refund, § 75611

Pick-up of contributions by employer, § 75605

Withdrawal, § 75606

Write-off of specified erroneous amounts, § 75611.5

**COST-OF-LIVING ADJUSTMENTS**

Normal retirement, § 75523

**D**

**DEATH**

**Final payment following death**

Beneficiary designation, § 75508  
Disposition, § 75507

**DEDUCTIONS**

**Benefits**

Purposes for which deductions authorized,  
§ 75609

**Fund**

County salary deductions, § 75602  
Increase in rate, § 75603

State salary deductions, § 75601

**Normal retirement**

Group life insurance, § 75525

**DEFINITIONS**

Benefit factor, § 75502, 75522

Board, § 75502

Contributions, § 75502

**Court**

Community property, § 75550

**Disability**

Disability retirement, § 75560.1

Final compensation, § 75502

Fund, § 75502

Judge, § 75502

**Member**

Community property, § 75550

**Nonmember**

Community property, § 75550

## JUDGES' RETIREMENT SYSTEM II

### **DEFINITIONS—Cont'd**

Retirement fund, § 75502  
Salary, § 75502  
Service, § 75502  
System, § 75502

### **DESIGNATION OF BENEFICIARIES**

Final payment following death, § 75508

### **DISABILITY RETIREMENT, § 75560 to 75564**

Benefit factor, § 75560.4  
Definition of disability, § 75560.1  
Election defeat  
    Effect on application, § 75564  
Eligibility, § 75560  
Employment of retired judge  
    Effect on disability retirement, § 75580  
Felony commission or pending charge  
    Effect on application, § 75563  
Medical examination, § 75560.6

### **DIVORCE OR DISSOLUTION OF MARRIAGE**

Community property, § 75550 to 75553. See  
    COMMUNITY PROPERTY

## **E**

### **EARLY RETIREMENT, § 75521**

### **EDUCATIONAL PROGRAMS**

Study leave for judges, § 68554

### **ELECTIONS AND VOTING**

Contributions  
    Withdrawal  
        Effect of candidacy, nomination or  
        appointment, § 75606  
Disability retirement  
    Defeat at election  
        Effect on application, § 75564

### **EMPLOYMENT OF RETIRED JUDGES, § 75580, 75583**

## **F**

### **FELONY CONVICTION OR PLEA**

Disability retirement  
    Effect of felony charge or conviction on  
    application, § 75563  
Normal retirement  
    Effect on retirement, § 75526

### **FUND**

Administrative expenses, § 75610  
Contributions  
    State contribution, § 75600  
    Rate, § 75600.5  
Deductions  
    County salary deductions, § 75602  
    Increase in rate, § 75603  
    State salary deductions, § 75601  
Defined, § 75502  
Investments, § 75607

### **FUND—Cont'd**

Payments from fund  
    Method of payment, § 75505  
Treasurer as custodian of fund, § 75608

## **I**

### **INSURANCE**

Group term life insurance, § 75592

### **INTERNAL REVENUE CODE**

Benefits  
    Limitation on benefits, § 75527, 75572

### **INVESTMENTS**

Fund, § 75607

## **L**

### **LEAVE**

Study leave for judges, § 68554

### **LEGAL SEPARATION**

Community property, § 75550 to 75553. See  
    COMMUNITY PROPERTY

## **M**

### **MASTERS**

Employment of retired judges  
    Appointment as master or referee, § 75583

### **MEDICAL AND HOSPITAL CARE ACT**

Eligibility  
    Inactive members of systems, § 22814

### **MEDICAL EXAMINATIONS**

Disability retirement, § 75560.6

### **MEMBERS**

Statements, § 75506

### **MILITARY SERVICE**

Prior service credit, § 75506.6  
Purchase of service credit  
    Employer contributions, § 75506.8  
    Member contributions, § 75506.7

## **N**

### **NONMEMBER RIGHTS**

Community property generally, § 75550 to 75553. See  
    COMMUNITY PROPERTY

### **NORMAL RETIREMENT**

Benefit factor  
    Defined, § 75522  
Concurrent retirement from PERS or county system  
    and this system  
    Service requirement, § 75528  
Cost-of-living adjustments, § 75523  
Deductions  
    Group life insurance, § 75525  
Felony conviction or plea  
    Effect on retirement, § 75526  
Limitation on benefits, § 75527

JUDGES' RETIREMENT SYSTEM II

**NORMAL RETIREMENT—Cont'd**

Monetary credit accrual, § 75520  
Early retirement, effect on, § 75521  
Temporary judges, § 75524

**P**

**PAYMENTS, § 75570 to 75573**

Final payment following death  
Beneficiary designation, § 75508  
Disposition, § 75507  
Method of payment from fund, § 75505  
Optional settlements  
Election, § 75570  
Enumeration of settlement options, § 75571  
Waiving increase, § 75573

**PRIOR SERVICE CREDIT**

Military service, § 75506.6  
Subordinate judicial officers, § 75506.5

**R**

**REFEREES**

Employment of retired judges  
Appointment as master or referee, § 75583

**REPORTS**

Failure of county to submit timely report, § 75612

**RETIRED JUDGES, EMPLOYMENT, § 75580,  
75583**

**RETIREMENT FUND. See FUND**

**S**

**SALARY**

Defined, § 75502  
Voluntary waiver of salary program  
Effect on benefits, § 75605.1

**SERVICE**

Definition of service, § 75502

**SETTLEMENTS, OPTIONAL**

Election, § 75570  
Enumeration of settlement options, § 75571  
Waiving increase, § 75573

**STUDY LEAVE FOR JUDGES, § 68554**

**SUBORDINATE JUDICIAL OFFICERS**

Prior service credit, § 75506.5

**SURVIVOR BENEFITS**

Spouse  
Election of benefits, § 75590  
Ineligibility of judge to retire, § 75591

**T**

**TEMPORARY JUDGES**

Normal retirement, § 75524

**TITLE OF PROVISIONS, § 75500**

**U**

**UNCLAIMED BENEFITS, § 75613**

