

## **JUDGES' RETIREMENT SYSTEM II**

*California Public Employees' Retirement System*

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JUDGES' RETIREMENT SYSTEM II

**JUDGES' RETIREMENT SYSTEM II 2017**

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-14
Article 5.	Payment of Benefits, §§ 75570 - 75573 .....	JII-17
Article 6.	Employment of Retired Judges, §§ 75580 - 75583 .....	JII-22
Article 7.	Survivor and Insurance Benefits, §§ 75590 - 75592 .....	JII-23
Article 8.	Fund, §§ 75600 - 75613 .....	JII-25

**OTHER RELEVANT LAW SECTIONS**

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

Chapter 7.	Compensation, § 20639.....	JII-31
------------	----------------------------	--------

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

Chapter 1.	Public Employees' Health Benefits §§ 22814, 22816.31 .....	JII-32
------------	--	--------

**Government Code (Excerpts)**

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

Chapter 2.	The Judicial Council	
Article 2.	Assignment of Judges, §§ 68543.5, 68543.7.....	JII-34
Article 3.	Coordinated Educational Programs for the Judiciary § 68554.....	JII-35

**THE PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013**

**Title 1. General**

Division 7.	Miscellaneous	
Chapter 21.	Public Pension and Retirement Plans	
Article 4.	California Public Employees' Pension Reform Act of 2013, §§ 7522 – 7522.74 .....	JII-36

<b>Index</b> .....	JII-63
--------------------	--------

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
§ 75570.5.	Maximum Combined Monthly Allowance Payable
§ 75571.	Optional Settlements—Prior to 1/1/2018
§ 75571.5.	Optional Settlements—On or After 1/1/2018
§ 75572.	Internal Revenue Code: Limitation on Benefits
§ 75573.	Optional Settlement: Waive Increase

*Article 6*

*Employment of Retired Judges*

§ 75580.	Employment after Disability Retirement
§ 75580.5.	Reinstatement From 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

JUDGES' RETIREMENT SYSTEM II

SECTION		SECTION	
§ 75610.	Administrative Expenses	§ 75612.	Penalties for Failure to Submit Timely Reports
§ 75611.	Overpayment of Contributions	§ 75613.	Unclaimed Benefits
§ 75611.5.	Write-Off of Specified Amounts		

**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.

## JUDGES' RETIREMENT SYSTEM II

(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.

(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.

(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.

(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; amended by Stats. 2012, Ch. 833.)

### **§ 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. To the extent applicable, the Board of Administration of the Public Employees' Retirement System shall administer this chapter in conformance with the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) to the same extent and with the same effect as if the provisions of the act are contained in the Judges' Retirement System II Law. If the Board of Administration of the Public Employees' Retirement System determines that there is a conflict between the provisions of the California Public Employees' Pension Reform Act of 2013 and this chapter,

## JUDGES' RETIREMENT SYSTEM II

the provisions of the California Public Employees' Pension Reform Act of 2013 shall control.

(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; amended by Stats. 2013, Ch. 526.)

### **§ 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.

(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

## JUDGES' RETIREMENT SYSTEM II

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 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



## JUDGES' RETIREMENT SYSTEM II

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

## JUDGES' RETIREMENT SYSTEM II

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.)

## **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,

## JUDGES' RETIREMENT SYSTEM II

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 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; by Stats. 2004, Ch. 69, effective 6/24/04; and by Stats. 2015, Ch. 303.)

### **§ 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.

(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

## JUDGES' RETIREMENT SYSTEM II

provided for 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.

(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; and by Stats. 2016, Ch. 199.)

### **§ 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.

(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.)

## JUDGES' RETIREMENT SYSTEM II

### **§ 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.)

## **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.

## JUDGES' RETIREMENT SYSTEM II

(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 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 20750 from the date of payment to the date of redeposit. A partial redeposit shall not be accepted.

## JUDGES' RETIREMENT SYSTEM II

(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 20750 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; amended by Stats. 2014, Ch. 237.)

### **§ 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.

(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:

JUDGES' RETIREMENT SYSTEM II

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

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 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



## JUDGES' RETIREMENT SYSTEM II

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.)

### **§ 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.

## JUDGES' RETIREMENT SYSTEM II

(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:

(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

### **§ 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.)

## **ARTICLE 5. PAYMENT OF BENEFITS**

### **§ 75570. Optional Settlement Election**

(a) In lieu of electing the unmodified 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 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 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.

## JUDGES' RETIREMENT SYSTEM II

(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.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2014, Ch. 237; and by Stats. 2016, Ch. 199.)

### **§ 75570.5. Maximum Combined Monthly Allowance Payable**

If a judge elects an optional settlement that provides for a monthly allowance for his or her surviving spouse, the combined allowance payable to the surviving spouse pursuant to the optional settlement and Section 75590, if applicable, cannot exceed the amount of the judge's monthly allowance.

(Added by Stats. 2016, Ch. 199.)

### **§ 75571. Optional Settlements—Prior to 1/1/2018**

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

(a) Optional settlement one consists of the right to have a retirement allowance paid to the judge 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 to the judge 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 to the judge 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.

## JUDGES' RETIREMENT SYSTEM II

(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.

(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; and by Stats. 2016, Ch. 199.)

### **§ 75571.5. Optional Settlements—On or After 1/1/2018**

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 his or her life alone. A continuing allowance to the surviving spouse, other than the benefit provided in subdivision (b) 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 his or her life alone and if he or she dies before he or she receives in annuity payments the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her surviving spouse, or if none, to his or her estate.

(c) (1) The 100 Percent Beneficiary Option 2 consists of the right to have a retirement allowance paid to the judge until his or her death and thereafter to have the same monthly allowance paid to his or her surviving spouse for life; provided that with respect to a judge subject to subdivision (b) 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 (b) 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 estate of the deceased.

## JUDGES' RETIREMENT SYSTEM II

(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 his or her death and thereafter to have the same monthly allowance paid to his or her surviving spouse for life; provided that with respect to a judge subject to subdivision (b) 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 (b) 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 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, 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 his or her death and thereafter to have one-half of the monthly allowance paid to his or her surviving spouse for life; provided that with respect to a judge subject to subdivision (b) 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 (b) 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 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 his or her death and thereafter to have one-half of the monthly allowance paid to his or her surviving spouse for life; provided that with respect to a judge subject to subdivision (b) 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 (b) 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 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,

## JUDGES' RETIREMENT SYSTEM II

and the retired judge elected this optional settlement, 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 his or her death, and thereafter to have a monthly allowance paid to his or her 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 his or her death after retirement, a monthly allowance in an amount determined by the judge be paid to his or her surviving spouse for life.

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

(Added by Stats. 2016, Ch. 199.)

### **§ 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 in Section 75571 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.

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

(Added by Stats. 2001, Ch. 433; amended by Stats. 2016, Ch. 199.)

JUDGES' RETIREMENT SYSTEM II

**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 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



## JUDGES' RETIREMENT SYSTEM II

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.)

### **§ 75580.5. Reinstatement From Retirement**

(a) Except as provided in subdivision (b), if a person who is retired for service or disability under this system is appointed or elected to serve as a judge, he or she shall reinstate from retirement and again become a member of the system pursuant to this chapter.

(b) This section shall not apply to a retired judge who is assigned to serve in a court pursuant to Section 68543.5, and he or she shall not earn service credit or be entitled to retirement benefits under this part for that service.

(Added by Stats. 2014, Ch. 237.)

### **§ 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

## JUDGES' RETIREMENT SYSTEM II

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 the date of death and had elected the optional settlement specified in subdivision (b) of Section 75571 and in Section 75573.

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

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

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

(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; by Stats. 2003, Ch. 10, effective 5/14/03; and by Stats. 2016, Ch. 199.)

### **§ 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.

## JUDGES' RETIREMENT SYSTEM II

(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.)

## **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.

## JUDGES' RETIREMENT SYSTEM II

(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 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.)

JUDGES' RETIREMENT SYSTEM II

**§ 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.)

**§ 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.)

## JUDGES' RETIREMENT SYSTEM II

### **§ 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.)

JUDGES' RETIREMENT SYSTEM II

**§ 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.

(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

JUDGES' RETIREMENT SYSTEM II

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 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.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2010, Ch. 639; amended by Stats. 2012, Ch. 665.)

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 Department of General Services 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; by Stats. 2006, Ch. 538; and by Stats. 2016, Ch. 31, effective 6/27/2016.)

### **§ 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

THE PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013

**TITLE 1. GENERAL**

**DIVISION 7. MISCELLANEOUS**

**Chapter 21. Public Pension and Retirement Plans**

**ARTICLE 4. CALIFORNIA PUBLIC EMPLOYEES' PENSION  
REFORM ACT OF 2013**

**§ 7522. Title**

This article shall be known as the California Public Employees' Pension Reform Act of 2013.

(Added by Stats. 2012, Ch. 296.)

**§ 7522.02. General Provisions**

(a) (1) Notwithstanding any other law, except as provided in this article, on and after January 1, 2013, this article shall apply to all state and local public retirement systems and to their participating employers, including the Public Employees' Retirement System, the State Teachers' Retirement System, the Legislators' Retirement System, the Judges' Retirement System, the Judges' Retirement System II, county and district retirement systems created pursuant to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), independent public retirement systems, and to individual retirement plans offered by public employers. However, this article shall be subject to the Internal Revenue Code and Section 17 of Article XVI of the California Constitution. The administration of the requirements of this article shall comply with applicable provisions of the Internal Revenue Code and the Revenue and Taxation Code.

(2) Notwithstanding paragraph (1), this article shall not apply to the entities described in Section 9 of Article IX of, and Sections 4 and 5 of Article XI of, the California Constitution, except to the extent that these entities continue to be participating employers in any retirement system governed by state statute. Accordingly, any retirement plan approved before January 1, 2013, by the voters of any entity excluded from coverage by this section shall not be affected by this article.

(3) (A) Notwithstanding paragraph (1), this article shall not apply to a public employee whose interests are protected under Section 5333(b) of Title 49 of the United States Code until a federal district court rules that the United States Secretary of Labor, or his or her designee, erred in determining that the

JUDGES' RETIREMENT SYSTEM II

application of this article precludes certification under that section, or until January 1, 2016, whichever is sooner.

(B) If a federal district court upholds the determination of the United States Secretary of Labor, or his or her designee, that application of this article precludes him or her from providing a certification under Section 5333(b) of Title 49 of the United States Code, this article shall not apply to a public employee specified in subparagraph (A).

(4) Notwithstanding paragraph (1), this article shall not apply to a multiemployer plan authorized by Section 302(c)(5) of the federal Taft-Hartley Act (29 U.S.C. Sec. 186(c)(5)) if the public employer began participation in that plan prior to January 1, 2013, and the plan is regulated by the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.).

(b) The benefit plan required by this article shall apply to public employees who are new members as defined in Section 7522.04.

(c) (1) Individuals who were employed by any public employer before January 1, 2013, and who became employed by a subsequent public employer for the first time on or after January 1, 2013, shall be subject to the retirement plan that would have been available to employees of the subsequent employer who were first employed by the subsequent employer on or before December 31, 2012, if the individual was subject to concurrent membership for which creditable service was performed in the previous six months or reciprocity established under any of the following provisions:

(A) Article 5 (commencing with Section 20350) of Chapter 3 of Part 3 of Division 5 of Title 2.

(B) Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3.

(C) Any agreement between public retirement systems to provide reciprocity to members of the systems.

(D) Section 22115.2 of the Education Code.

(2) An individual who was employed before January 1, 2013, and who, without a separation from employment, changed employment positions and became subject to a different defined benefit plan in a different public retirement system offered by his or her employer shall be subject to that defined benefit plan as it would have been available to employees who were first employed on or before December 31, 2012.

(d) If a public employer, before January 1, 2013, offers a defined benefit pension plan that provides a defined benefit formula with a lower benefit factor at normal retirement age and results in a lower normal cost than the defined benefit formula required by this article, that employer may continue to offer that defined benefit formula instead of the defined benefit formula required by this article, and shall not be subject to the requirements of Section 7522.10 for pensionable compensation subject to that formula. However, if the employer adopts a new defined benefit formula on or after January 1, 2013, that formula must conform to

## JUDGES' RETIREMENT SYSTEM II

the requirements of this article or must be determined and certified by the retirement system's chief actuary and the retirement board to have no greater risk and no greater cost to the employer than the defined benefit formula required by this article and must be approved by the Legislature. New members of the defined benefit plan may only participate in the lower cost defined benefit formula that was in place before January 1, 2013, or a defined benefit formula that conforms to the requirements of this article or is approved by the Legislature as provided in this subdivision.

(e) If a public employer, before January 1, 2013, offers a retirement benefit plan that consists solely of a defined contribution plan, that employer may continue to offer that plan instead of the defined benefit pension plan required by this article. However, if the employer adopts a new defined benefit pension plan or defined benefit formula on or after January 1, 2013, that plan or formula must conform to the requirements of this article or must be determined and certified by the retirement system's chief actuary and the system's board to have no greater risk and no greater cost to the employer than the defined benefit formula required by this article and must be approved by the Legislature. New members of the employer's plan may only participate in the defined contribution plan that was in place before January 1, 2013, or a defined contribution plan or defined benefit formula that conforms to the requirements of this article. This subdivision shall not be construed to prohibit an employer from offering a defined contribution plan on or after January 1, 2013, either with or without a defined benefit plan, whether or not the employer offered a defined contribution plan prior to that date.

(f) (1) If, on or after January 1, 2013, the Cities of Brea and Fullerton form a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5), that joint powers authority may provide employees the defined benefit plan or formula that those employees received from their respective employers prior to the exercise of a common power, to which the employee is associated, by the joint powers authority to any employee of the City of Brea, the City of Fullerton, or a city described in paragraph (2) who is not a new member and subsequently is employed by the joint powers authority within 180 days of the city providing for the exercise of a common power, to which the employee was associated, by the joint powers authority.

(2) On or before January 1, 2017, a city in Orange County that is contiguous to the City of Brea or the City of Fullerton may join the joint powers authority described in paragraph (1) but not more than three cities shall be permitted to join.

(3) The formation of a joint powers authority on or after January 1, 2013, shall not act in a manner as to exempt a new employee or a new member, as defined by Section 7522.04, from the requirements of this article. New members may only participate in a defined benefit plan or formula that conforms to the requirements of this article.



## JUDGES' RETIREMENT SYSTEM II

(g) (1) If, on or after January 1, 2013, the Belmont Fire Protection District, the Estero Municipal Improvement District, and the City of San Mateo form a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5), that joint powers authority may provide employees the defined benefit plan or formula that those employees received from their respective employers prior to the exercise of a common power, to which the employee is associated, by the joint powers authority to any employee of the Belmont Fire Protection District, the Estero Municipal Improvement District, and the City of San Mateo who is not a new member and subsequently is employed by the joint powers authority within 180 days of the agency providing for the exercise of a common power, to which the employee was associated, by the joint powers authority.

(2) The formation of a joint powers authority on or after January 1, 2013, shall not act in a manner as to exempt a new employee or a new member, as defined by Section 7522.04, from the requirements of this article. New members may only participate in a defined benefit plan or formula that conforms to the requirements of this article.

(h) The Judges' Retirement System and the Judges' Retirement System II shall not be required to adopt the defined benefit formula required by Section 7522.20 or 7522.25 or the compensation limitations defined in Section 7522.10.

(i) This article shall not be construed to provide membership in any public retirement system for an individual who would not otherwise be eligible for membership under that system's applicable rules or laws.

(j) On and after January 1, 2013, each public retirement system shall modify its plan or plans to comply with the requirements of this article and may adopt regulations or resolutions for this purpose.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 527 and Ch. 528, effective 10/4/2013; by Stats. 2014, Ch. 724 (effective 09/28/2014) and Ch. 757; by Stats. 2015, Ch. 158; and by Stats. 2016, Ch. 531.)

### **§ 7522.04. Definitions**

For the purposes of this article:

(a) "Defined benefit formula" means a formula used by the retirement system to determine a retirement benefit based on age, years of service, and pensionable compensation earned by an employee up to the limit defined in Section 7522.10.

(b) "Employee contributions" means the contributions to a public retirement system required to be paid by a member of the system, as fixed by law, regulation, administrative action, contract, contract amendment, or other written agreement recognized by the retirement system as establishing an employee contribution.

(c) "Federal system" means the old age, survivors, disability, and health insurance provisions of the federal Social Security Act (42 U.S.C. Sec. 301 et seq.).

JUDGES' RETIREMENT SYSTEM II

(d) "Member" means a public employee who is a member of any type of a public retirement system or plan.

(e) "New employee" means either of the following:

(1) An employee, including one who is elected or appointed, of a public employer who is employed for the first time by any public employer on or after January 1, 2013, and who was not employed by any other public employer prior to that date.

(2) An employee, including one who is elected or appointed, of a public employer who is employed for the first time by any public employer on or after January 1, 2013, and who was employed by another public employer prior to that date, but who was not subject to reciprocity under subdivision (c) of Section 7522.02.

(f) "New member" means any of the following:

(1) An individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and who was not a member of any other public retirement system prior to that date.

(2) An individual who becomes a member of a public retirement system for the first time on or after January 1, 2013, and who was a member of another public retirement system prior to that date, but who was not subject to reciprocity under subdivision (c) of Section 7522.02.

(3) An individual who was an active member in a retirement system and who, after a break in service of more than six months, returned to active membership in that system with a new employer. For purposes of this subdivision, a change in employment between state entities or from one school employer to another shall not be considered as service with a new employer.

(g) "Normal cost" means the portion of the present value of projected benefits under the defined benefit that is attributable to the current year of service, as determined by the public retirement system's actuary according to the most recently completed valuation. For the purpose of determining normal cost, the system's actuary may use a single rate of contribution or an age-based rate of contribution as is applicable to that retirement system.

(h) "Public employee" means an officer, including one who is elected or appointed, or an employee of a public employer.

(i) "Public employer" means:

(1) The state and every state entity, including, but not limited to, the Legislature, the judicial branch, including judicial officers, and the California State University.

(2) Any political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, a charter city, a charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

## JUDGES' RETIREMENT SYSTEM II

(3) Any charter school that elects or is required to participate in a public retirement system.

(j) "Public retirement system" means any pension or retirement system of a public employer, including, but not limited to, an independent retirement plan offered by a public employer that the public employer participates in or offers to its employees for the purpose of providing retirement benefits, or a system of benefits for public employees that is governed by Section 401(a) of Title 26 of the United States Code.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013.)

### **§ 7522.05. Exemption from PEPRA requirements**

(a) A joint powers authority formed on or after January 1, 2013, and formed pursuant to the provisions of the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5), where at least one member agency provided benefits on or before December 31, 2012, as described in subdivision (c) of Section 7522.02, may provide employees of that joint powers authority the defined benefit plan or formula that those employees received from their respective employers prior to the exercise of a common power where that employee was not a new member with that employer and subsequently is employed by the joint powers authority within 180 days of the member agency providing for the exercise of a common power.

(b) The formation of a joint powers authority on or after January 1, 2013, shall not act in a manner as to exempt a new employee or a new member, as defined by Section 7522.04, hired by that joint powers authority from the requirements of the Public Employees' Pension Reform Act of 2013. New members may only participate in a defined benefit plan or formula that conforms to the requirements of the Public Employees' Pension Reform Act of 2013.

(Added by Stats. 2016, Ch. 729.)

### **§ 7522.10. Pensionable Compensation—Limitations**

(a) On and after January 1, 2013, each public retirement system shall modify its plan or plans to comply with the requirements of this section for each public employer that participates in the system.

(b) Whenever pensionable compensation, as defined in Section 7522.34, is used in the calculation of a benefit, the pensionable compensation shall be subject to the limitations set forth in subdivision (c).

(c) The pensionable compensation used to calculate the defined benefit paid to a new member who retires from the system shall not exceed the following applicable percentage of the contribution and benefit base specified in Section 430(b) of Title 42 of the United States Code on January 1, 2013:

JUDGES' RETIREMENT SYSTEM II

(1) One hundred percent for a member whose service is included in the federal system.

(2) One hundred twenty percent for a member whose service is not included in the federal system.

(d) (1) The retirement system shall adjust the pensionable compensation described in subdivision (c) based on the annual changes to the Consumer Price Index for All Urban Consumers: U.S. City Average, calculated by dividing the Consumer Price Index for All Urban Consumers: U.S. City Average, for the month of September in the calendar year preceding the adjustment by the Consumer Price Index for All Urban Consumers: U.S. City Average, for the month of September of the previous year rounded to the nearest thousandth. The adjustment shall be effective annually on January 1, beginning in 2014.

(2) The Legislature reserves the right to modify the requirements of this subdivision with regard to all public employees subject to this section, except that the Legislature may not modify these provisions in a manner that would result in a decrease in benefits accrued prior to the effective date of the modification.

(e) A public employer shall not offer a defined benefit or any combination of defined benefits, including a defined benefit offered by a private provider, on compensation in excess of the limitation in subdivision (c).

(f) (1) Subject to the limitation in subdivision (c) of Section 7522.42, a public employer may provide a contribution to a defined contribution plan for compensation in excess of the limitation in subdivision (c) provided the plan and the contribution meet the requirements and limits of federal law.

(2) A public employee who receives an employer contribution to a defined contribution plan shall not have a vested right to continue receiving the employer contribution.

(g) Any employer contributions to any employee defined contribution plan above the pensionable compensation limits in subdivision (c) shall not exceed the employer's contribution rate, as a percentage of pay, required to fund the defined benefit plan for income subject to the limitation in subdivision (c) of Section 7522.42.

(h) The retirement system shall limit the pensionable compensation used to calculate the contributions required of an employer or a new member to the amount of compensation that would be used for calculating a defined benefit as set forth in subdivision (c) or (d).

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013.)

**§ 7522.15. Retirement Benefit Formulas Permitted—New Member on and after January 1, 2013**

Except as provided in subdivisions (d) and (e) of Section 7522.02, each public employer and each public retirement system that offers a defined benefit plan shall

JUDGES' RETIREMENT SYSTEM II

offer only the defined benefit formulas established pursuant to Sections 7522.20 and 7522.25 to new members.

(Added by Stats. 2012, Ch. 296.)

**§ 7522.18. Prohibition on Supplemental Defined Benefit Plans**

(a) A public employer that does not offer a supplemental defined benefit plan before January 1, 2013, shall not offer a supplemental defined benefit plan for any employee on or after January 1, 2013.

(b) A public employer that provides a supplemental defined benefit plan, including a defined benefit plan offered by a private provider, before January 1, 2013, shall not offer a supplemental defined benefit plan to any additional employee group to which the plan was not provided before January 1, 2013.

(c) Except as provided in Chapter 38 (commencing with Section 25000) of Article 1 of Part 13 of Title 1 of the Education Code, a public employer shall not offer or provide a supplemental defined benefit plan, including a defined benefit plan offered by a private provider, to any employee hired on or after January 1, 2013.

(Added by Stats. 2012, Ch. 296.)

**§ 7522.20. 2% at Age 62 Benefit Formula—Non-Safety Members**

(a) Each retirement system that offers a defined benefit plan for nonsafety members of the system shall use the formula prescribed by this section. The defined benefit plan shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a nonsafety member. A member may retire for service under this section after five years of service and upon reaching 52 years of age.

Age of Retirement	Fraction
52.....	1.000
52 1/4.....	1.025
52 1/2.....	1.050
52 3/4.....	1.075
53.....	1.100
53 1/4.....	1.125
53 1/2.....	1.150
53 3/4.....	1.175
54.....	1.200
54 1/4.....	1.225
54 1/2.....	1.250
54 3/4.....	1.275

JUDGES' RETIREMENT SYSTEM II

Age of Retirement	Fraction
55.....	1.300
55 1/4.....	1.325
55 1/2.....	1.350
55 3/4.....	1.375
56.....	1.400
56 1/4.....	1.425
56 1/2.....	1.450
56 3/4.....	1.475
57.....	1.500
57 1/4.....	1.525
57 1/2.....	1.550
57 3/4.....	1.575
58.....	1.600
58 1/4.....	1.625
58 1/2.....	1.650
58 3/4.....	1.675
59.....	1.700
59 1/4.....	1.725
59 1/2.....	1.750
59 3/4.....	1.775
60.....	1.800
60 1/4.....	1.825
60 1/2.....	1.850
60 3/4.....	1.875
61.....	1.900
61 1/4.....	1.925
61 1/2.....	1.950
61 3/4.....	1.975
62.....	2.000
62 1/4.....	2.025
62 1/2.....	2.050
62 3/4.....	2.075
63.....	2.100
63 1/4.....	2.125
63 1/2.....	2.150
63 3/4.....	2.175
64.....	2.200
64 1/4.....	2.225
64 1/2.....	2.250
64 3/4.....	2.275
65.....	2.300
65 1/4.....	2.325
65 1/2.....	2.350
65 3/4.....	2.375
66.....	2.400

JUDGES' RETIREMENT SYSTEM II

Age of Retirement	Fraction
66 1/4 .....	2.425
66 1/2 .....	2.450
66 3/4 .....	2.475
67 .....	2.500

(b) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10.

(c) A new member of the State Teachers' Retirement System shall be subject to the formula established pursuant to Section 24202.6 of the Education Code.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 76.)

**§ 7522.25. 2% at Age 57; 2.5% at Age 57; 2.7% at Age 57 Benefit Formulas—Safety Members**

(a) Each retirement system that offers a defined benefit plan for safety members of the system shall use one or more of the defined benefit formulas prescribed by this section. A member may retire for service under any of the formulas in this section after five years of service and upon reaching 50 years of age.

(b) The Basic Safety Plan shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	Fraction
50 .....	1.426
50 1/4 .....	1.447
50 1/2 .....	1.467
50 3/4 .....	1.488
51 .....	1.508
51 1/4 .....	1.529
51 1/2 .....	1.549
51 3/4 .....	1.570
52 .....	1.590
52 1/4 .....	1.611
52 1/2 .....	1.631
52 3/4 .....	1.652
53 .....	1.672
53 1/4 .....	1.693
53 1/2 .....	1.713
53 3/4 .....	1.734
54 .....	1.754

JUDGES' RETIREMENT SYSTEM II

Age at Retirement	Fraction
54 1/4 .....	1.775
54 1/2 .....	1.795
54 3/4 .....	1.816
55 .....	1.836
55 1/4 .....	1.857
55 1/2 .....	1.877
55 3/4 .....	1.898
56 .....	1.918
56 1/4 .....	1.939
56 1/2 .....	1.959
56 3/4 .....	1.980
57 and over .....	2.000

(c) The Safety Option Plan One shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	Fraction
50 .....	2.000
50 1/4 .....	2.018
50 1/2 .....	2.036
50 3/4 .....	2.054
51 .....	2.071
51 1/4 .....	2.089
51 1/2 .....	2.107
51 3/4 .....	2.125
52 .....	2.143
52 1/4 .....	2.161
52 1/2 .....	2.179
52 3/4 .....	2.196
53 .....	2.214
53 1/4 .....	2.232
53 1/2 .....	2.250
53 3/4 .....	2.268
54 .....	2.286
54 1/4 .....	2.304
54 1/2 .....	2.321
54 3/4 .....	2.339
55 .....	2.357
55 1/4 .....	2.375
55 1/2 .....	2.393



JUDGES' RETIREMENT SYSTEM II

Age at Retirement	Fraction
55 3/4 .....	2.411
56 .....	2.429
56 1/4 .....	2.446
56 1/2 .....	2.464
56 3/4 .....	2.482
57 and over .....	2.500

(d) The Safety Option Plan Two shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	Fraction
50 .....	2.000
50 1/4 .....	2.025
50 1/2 .....	2.050
50 3/4 .....	2.075
51 .....	2.100
51 1/4 .....	2.125
51 1/2 .....	2.150
51 3/4 .....	2.175
52 .....	2.200
52 1/4 .....	2.225
52 1/2 .....	2.250
52 3/4 .....	2.275
53 .....	2.300
53 1/4 .....	2.325
53 1/2 .....	2.350
53 3/4 .....	2.375
54 .....	2.400
54 1/4 .....	2.425
54 1/2 .....	2.450
54 3/4 .....	2.475
55 .....	2.500
55 1/4 .....	2.525
55 1/2 .....	2.550
55 3/4 .....	2.575
56 .....	2.600
56 1/4 .....	2.625
56 1/2 .....	2.650
56 3/4 .....	2.675
57 and over .....	2.700

JUDGES' RETIREMENT SYSTEM II

(e) On and after January 1, 2013, an employer shall offer one or more of the safety formulas prescribed by this section to new members who are safety employees. The formula offered shall be the formula that is closest to, and provides a lower benefit at 55 years of age than, the formula provided to members in the same retirement classification offered by the employer on December 31, 2012.

(f) On and after January 1, 2013, an employer and its employees subject to Safety Option Plan One or Safety Option Plan Two may agree in a memorandum of understanding to be subject to Safety Option Plan One or the Basic Safety Plan, subject to the following:

(1) The lower plan shall apply to members first employed on or after the effective date of the lower plan, and shall be agreed to in a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(2) A retirement plan contract amendment with a public retirement system to alter a retirement formula pursuant to this subdivision shall not be implemented by the employer in the absence of a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(3) An employer shall not use impasse procedures to impose the lower plan.

(4) An employer shall not provide a different defined benefit for nonrepresented, managerial, or supervisory employees than the employer provides for other public employees, including represented employees, of the same employer who are in the same membership classifications.

(g) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013.)

**§ 7522.30. Cost Sharing—50 Percent of Normal Costs—New Member on and after January 1, 2013**

(a) This section shall apply to all public employers and to all new members. Equal sharing of normal costs between public employers and public employees shall be the standard. The standard shall be that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution.

(b) The “normal cost rate” shall mean the annual actuarially determined normal cost for the plan of retirement benefits provided to the new member and shall be established based on the actuarial assumptions used to determine the liabilities and costs as part of the annual actuarial valuation. The plan of retirement benefits shall include any elements that would impact the actuarial determination of the normal cost, including, but not limited to, the retirement formula, eligibility and

## JUDGES' RETIREMENT SYSTEM II

vesting criteria, ancillary benefit provisions, and any automatic cost-of-living adjustments as determined by the public retirement system.

(c) New members employed by those public employers defined in paragraphs (2) and (3) of subdivision (i) of Section 7522.04, the Legislature, the California State University, and the judicial branch who participate in a defined benefit plan shall have an initial contribution rate of at least 50 percent of the normal cost rate for that defined benefit plan, rounded to the nearest quarter of 1 percent, unless a greater contribution rate has been agreed to pursuant to the requirements in subdivision (e). This contribution shall not be paid by the employer on the employee's behalf.

(d) Notwithstanding subdivision (c), once established, the employee contribution rate described in subdivision (c) shall not be adjusted on account of a change to the normal cost rate unless the normal cost rate increases or decreases by more than 1 percent of payroll above or below the normal cost rate in effect at the time the employee contribution rate is first established or, if later, the normal cost rate in effect at the time of the last adjustment to the employee contribution rate under this section.

(e) Notwithstanding subdivision (c), employee contributions may be more than one-half of the normal cost rate if the increase has been agreed to through the collective bargaining process, subject to the following conditions:

(1) The employer shall not contribute at a greater rate to the plan for nonrepresented, managerial, or supervisory employees than the employer contributes for other public employees, including represented employees, of the same employer who are in related retirement membership classifications.

(2) The employer shall not increase an employee contribution rate in the absence of a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(3) The employer shall not use impasse procedures to increase an employee contribution rate above the rate required by this section.

(f) If the terms of a contract, including a memorandum of understanding, between a public employer and its public employees, that is in effect on January 1, 2013, would be impaired by any provision of this section, that provision shall not apply to the public employer and public employees subject to that contract until the expiration of that contract. A renewal, amendment, or any other extension of that contract shall be subject to the requirements of this section.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013.)

### **§ 7522.32. Final Compensation—Three Years—New Member on and after January 1, 2013**

For the purposes of determining a retirement benefit to be paid to a new member of a public retirement system, the following shall apply:

## JUDGES' RETIREMENT SYSTEM II

(a) Final compensation shall mean the highest average annual pensionable compensation earned by the member during a period of at least 36 consecutive months, or at least three consecutive school years if applicable, immediately preceding his or her retirement or last separation from service if earlier, or during any other period of at least 36 consecutive months, or at least three consecutive school years if applicable, during the member's applicable service that the member designates on the application for retirement.

(b) On or after January 1, 2013, an employer shall not modify a benefit plan to permit a calculation of final compensation on a basis of less than the average annual compensation earned by the member during a consecutive 36-month period, or three school years if applicable, for members who have been subject to at least a 36-month or three-school-year calculation prior to that date.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013.)

### **§ 7522.34. Definition—Pensionable Compensation**

(a) "Pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules, subject to the limitations of subdivision (c).

(b) Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid.

(c) Notwithstanding any other law, "pensionable compensation" of a new member does not include the following:

(1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.

(2) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.

(3) Any one-time or ad hoc payments made to a member.

(4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

(5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.

(6) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

(7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.

## JUDGES' RETIREMENT SYSTEM II

(8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.

(9) Employer contributions to deferred compensation or defined contribution plans.

(10) Any bonus paid in addition to the compensation described in subdivision (a).

(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a).

(12) Any other form of compensation a public retirement board determines should not be pensionable compensation.

(13) (A) Any form of compensation identified that has been agreed to be nonpensionable pursuant to a memorandum of understanding for state employees bound by the memorandum of understanding. The state employer subject to the memorandum of understanding shall inform the retirement system of the excluded compensation and provide a copy of the memorandum of understanding.

(B) The state employer may determine if excluded compensation identified in subparagraph (A) shall apply to nonrepresented state employees who are aligned with state employees subject to the memorandum of understanding described in subparagraph (A). The state employer shall inform the retirement system of the exclusion of this compensation and provide a copy of the public pay schedule detailing the exclusion.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013.)

### **§ 7522.40. Health Benefit Vesting Schedule Equity**

(a) A public employer shall not provide to a public employee who is elected or appointed, a trustee, excluded from collective bargaining, exempt from civil service, or a manager any vesting schedule for the employer contribution payable for postretirement health benefits that is more advantageous than that provided generally to other public employees, including represented employees, of the same public employer who are in related retirement membership classifications.

(b) This section shall not require an employer to change the vesting schedule for the employer contribution payable for postretirement health benefits of any public employee who was subject to a specific vesting schedule pursuant to statute, collective bargaining agreement, or resolution for these employer contributions prior to January 1, 2013, or who had a contractual agreement with an employer prior to January 1, 2013, for a specific vesting schedule for these employer contributions.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013.)

**§ 7522.42. Compensation Subject to Annual Compensation Limit**

(a) In addition to any other benefit limitation prescribed by law, for the purposes of determining a public retirement benefit paid to a new member of a public retirement system, the maximum salary, compensation, or payrate taken into account under the plan for any year shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of Title 26 of the United States Code or its successor.

(b) A public employer shall not seek an exception to the prohibition in subdivision (a) on or after January 1, 2013.

(c) For employees first hired on or after January 1, 2013, a public employer shall not make employer contributions to any qualified retirement plan or plans on behalf of an employee based on that portion of the amount of total pensionable compensation that exceeds the amount specified in Section 401(a)(17) of Title 26 of the United States Code, or its successor.

(d) This section shall not apply to salary, compensation, or payrate paid to individuals who, due to their dates of hire, are not subject to the limits specified in subdivision (a).

(Added by Stats. 2012, Ch. 296.)

**§ 7522.43. Prohibition on Replacement Benefits Plans**

(a) A public employer shall not offer a plan of replacement benefits for members and any survivors or beneficiaries whose retirement benefits are limited by Section 415 of Title 26 of the United States Code. This section shall apply to new members.

(b) A public retirement system may continue to administer a plan of replacement benefits for employees first hired prior to January 1, 2013.

(c) A public employer that does not offer a plan of replacement benefits prior to January 1, 2013, shall not offer such a plan for any employee on or after January 1, 2013.

(d) A public employer that offers a plan of replacement benefits prior to January 1, 2013, shall not offer such a plan to any additional employee group to which the plan was not provided prior to January 1, 2013.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013.)

**§ 7522.44. Prohibition on Retroactive Benefits Increases**

This section shall apply to all public employers and to all public employees:

(a) Any enhancement to a public employee's retirement formula or retirement benefit adopted on or after January 1, 2013, shall apply only to service performed on or after the operative date of the enhancement and shall not be applied to any service performed prior to the operative date of the enhancement.

## JUDGES' RETIREMENT SYSTEM II

(b) If a change to a member's retirement membership classification or a change in employment results in an enhancement in the retirement formula or retirement benefit applicable to that member, that enhancement shall apply only to service performed on or after the operative date of the change and shall not be applied to any service performed prior to the operative date of the change.

(c) For purposes of this section, "operative date" in a collective bargaining agreement means one of the following:

(1) The date that the agreement is signed by the parties.

(2) A date agreed to by the parties that will occur after the date that the agreement is signed by the parties.

(3) A date designated by the parties that occurred prior to the date the agreement was signed if the most recent collective bargaining contract was expired at the time of the agreement and the date designated is not earlier than 12 months prior to the date of the agreement or the day after the last day of the expired bargaining contract, whichever occurred later.

(d) For purposes of this section, an increase to a retiree's annual cost-of-living adjustment within existing statutory limits shall not be considered to be an enhancement to a retirement benefit.

(Added by Stats. 2012, Ch. 296.)

### **§ 7522.46. Prohibition on Purchase of Nonqualified Service Credit**

(a) A public retirement system shall not allow the purchase of nonqualified service credit, as defined by Section 415(n)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 415(n)(3)(C)).

(b) Subdivision (a) shall not apply to an official application to purchase nonqualified service credit that is received by the public retirement system prior to January 1, 2013, that is subsequently approved by the system.

(Added by Stats. 2012, Ch. 296.)

### **§ 7522.48. Final Compensation—Local Elected Officials first elected on or after January 1, 2013**

(a) Final compensation of a member for the purpose of determining any pension or benefit resulting from service as an elective or appointed officer on a city council or a county board of supervisors accrued while in membership of a public retirement system shall be based on the highest average annual pensionable compensation earned by the member during the period of service in each elective or appointed office. Where that elective or appointed service is a consideration in the computation of any pension or benefit, the member may have more than one final compensation.

(b) Any final compensation calculation shall otherwise be subject to this article except that if any individual period of elective service is less than 36 months or

## JUDGES' RETIREMENT SYSTEM II

three years, then the entire period of that individual's elected service shall be used to determine the final compensation for that period of service.

(c) This section shall apply to a member first elected or appointed to a city council or a county board of supervisors on or after January 1, 2013.

(Added by Stats. 2012, Ch. 296.)

### **§ 7522.52. Normal Cost Rate—Required Contributions Each Fiscal Year**

(a) In any fiscal year, a public employer's contribution to a defined benefit plan, in combination with employee contributions to that defined benefit plan, shall not be less than the normal cost rate, as defined in Section 7522.30, for that defined benefit plan for that fiscal year.

(b) The board of a public retirement system may suspend contributions when all of the following apply:

(1) The plan is funded by more than 120 percent, based on a computation by the retirement system actuary in accordance with the Governmental Accounting Standards Board requirements that is included in the annual valuation.

(2) The retirement system actuary, based on the annual valuation, determines that continuing to accrue excess earnings could result in disqualification of the plan's tax-exempt status under the provisions of the federal Internal Revenue Code.

(3) The board determines that the receipt of any additional contributions required under this section would conflict with its fiduciary responsibility set forth in Section 17 of Article XVI of the California Constitution.

(Added by Stats. 2012, Ch. 296.)

### **§ 7522.56. Conditions and Limitations on Service After Retirement**

(a) This section shall apply to any person who is receiving a pension benefit from a public retirement system and shall supersede any other provision in conflict with this section.

(b) A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement, except as permitted by this section.

(c) A person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration.

(d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system. The rate of pay for the employment shall not be less than the minimum,



## JUDGES' RETIREMENT SYSTEM II

nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section shall acquire no service credit or retirement rights under this section with respect to the employment unless he or she reinstates from retirement.

(e) (1) Notwithstanding subdivision (c), any retired person shall not be eligible to serve or be employed by a public employer if, during the 12-month period prior to an appointment described in this section, the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with a public employer. A retiree shall certify in writing to the employer upon accepting an offer of employment that he or she is in compliance with this requirement.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

(f) A retired person shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless he or she meets one of the following conditions:

(1) The employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.

(2) (A) Except as otherwise provided in this paragraph, for state employees, the state employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days have passed and the appointment has been approved by the Department of Human Resources. The department may establish a process to delegate appointing authority to individual state agencies, but shall audit the process to determine if abuses of the system occur. If necessary, the department may assume an agency's appointing authority for retired workers and may charge the department an appropriate amount for administering that authority.

(B) For legislative employees, the Senate Committee on Rules or the Assembly Rules Committee certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

(C) For employees of the California State University, the Trustees of the California State University certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have

## JUDGES' RETIREMENT SYSTEM II

passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

(3) The retiree is eligible to participate in the Faculty Early Retirement Program pursuant to a collective bargaining agreement with the California State University that existed prior to January 1, 2013, or has been included in subsequent agreements.

(4) The retiree is a public safety officer or firefighter hired to perform a function or functions regularly performed by a public safety officer or firefighter.

(g) A retired person who accepted a retirement incentive upon retirement shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement and subdivision (f) shall not apply.

(h) This section shall not apply to a person who is retired from the State Teachers' Retirement System, and who is subject to Section 24214, 24214.5, or 26812 of the Education Code.

(i) This section shall not apply to (1) a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615, and he or she returns to work in the converted position, and the employer is a trial court, or (2) a retiree of the Judges' Retirement System or the Judges' Retirement System II who is assigned to serve in a court pursuant to Section 68543.5.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013; and by Stats. 2014, Ch. 238.)

### **§ 7522.57. Conditions and Limitations on Service After Retirement— Service on State Boards and Commissions**

(a) This section shall apply to any retired person who is receiving a pension benefit from a public retirement system and is first appointed on or after January 1, 2013, to a salaried position on a state board or commission. This section shall supersede any other provision in conflict with this section.

(b) A person who is retired from a public retirement system may serve without reinstatement from retirement or loss or interruption of benefits provided that appointment is to a part-time state board or commission. A retired person whose employment without reinstatement is authorized by this subdivision shall acquire no benefits, service credit, or retirement rights with respect to the employment. Unless otherwise defined in statute, for the purpose of this section, a part-time appointment shall mean an appointment with a salary of no more than \$60,000 annually, which shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) A person who is retired from the Public Employees' Retirement System shall not serve on a full-time basis on a state board or commission without reinstatement unless that person serves as a nonsalaried member of the board or

## JUDGES' RETIREMENT SYSTEM II

commission and receives only per diem authorized to all members of the board or commission. A person who serves as a nonsalaried member of a board or commission shall not earn any service credit or benefits in the Public Employees' Retirement System or make contributions with respect to the service performed.

(d) A person retired from a public retirement system other than the Public Employees' Retirement System who is appointed on a full-time basis to a state board or commission shall choose one of the following options:

(1) The person may serve as a nonsalaried member of the board or commission and continue to receive his or her retirement allowance, in addition to any per diem authorized to all members of the board or commission. The person shall not earn service credit or benefits in the Public Employees' Retirement System and shall not make contributions with respect to the service performed.

(2) (A) The person may suspend his or her retirement allowance or allowances and instate as a new member of the Public Employees' Retirement System for the service performed on the board or commission. The pensionable compensation earned pursuant to this paragraph shall not be eligible for reciprocity with any other retirement system or plan.

(B) Upon retiring for service after serving on the board or commission, the appointee shall be entitled to reinstatement of any suspended benefits, including employer provided retiree health benefits, that he or she was entitled to at the time of being appointed to the board or commission.

(e) Notwithstanding subdivisions (c) and (d), a person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment to a full-time state board pursuant to Section 5075 of the Penal Code or Section 1718 of the Welfare and Institutions Code.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 76; and by Stats. 2016, Ch. 33, effective 6/27/2016.)

### **§ 7522.66. Repealed**

(Added by Stats. 2012, Ch. 296; repealed by Stats. 2013, Ch. 528, effective 10/4/2013.)

### **§ 7522.70. Retirement Benefits Forfeiture Due to Felony Conviction— Elected Officers before January 1, 2013**

(a) This section shall apply to any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006.

(b) If an elected public officer is convicted during or after holding office of any felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her official duties as an elected public officer, he or she shall forfeit all rights and benefits

JUDGES' RETIREMENT SYSTEM II

under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction.

(c) (1) The elected public officer described in subdivision (b) shall forfeit only that portion of his or her rights and benefits that accrued on or after January 1, 2006, on account of his or her service in the elected public office held when the felony occurred.

(2) Paragraph (1) shall apply to the extent permissible by law.

(d) Any contributions made by the elected public officer described in subdivision (b) to the public retirement system that arose directly from or accrued solely as a result of his or her forfeited service as an elected public officer shall be returned, without interest, to the public officer.

(e) The public agency that employs an elected public officer described in subdivision (b) shall notify the public retirement system in which the officer is a member of the officer's conviction.

(f) An elected public officer shall not forfeit his or her rights and benefits pursuant to subdivision (b) if the governing body of the elected public officer's employer, including, but not limited to, the governing body of a city, county, or city and county, authorizes the public officer to receive those rights and benefits.

(g) For purposes of this section, "public officer" means an officer of the state, or an officer of a county, city, city and county, district, or authority, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities.

(h) This section applies to any person appointed to service for the period of an elected public officer's unexpired term of office.

(i) On and after January 1, 2013, this section shall not apply in any instance in which Section 7522.72 or 7522.74 applies.

(Added by Stats. 2005 Ch. 322; amended and renumbered from Section 1243 by Stats. 2012, Ch. 296; amended by Stats. 2014, Ch. 238.)

**§ 7522.72. Retirement Benefits Forfeiture Due to Felony Conviction—  
Members prior to January 1, 2013**

(a) This section shall apply to a public employee first employed by a public employer or first elected or appointed to an office before January 1, 2013, and, on and after that date, Section 7522.70 shall not apply.

(b) (1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

JUDGES' RETIREMENT SYSTEM II

(2) If a public employee who has contact with children as part of his or her official duties is convicted of a felony that was committed within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(c) (1) A member shall forfeit all the rights and benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The rights and benefits shall remain forfeited notwithstanding any reduction in sentence or expungement of the conviction following the date of the member's conviction. Rights and benefits attributable to service performed prior to the date of the first commission of the felony for which the member was convicted shall not be forfeited as a result of this section.

(2) Paragraph (1) shall apply to the extent permissible by law.

(3) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d) (1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the public employee upon the occurrence of a distribution event unless otherwise ordered by a court or determined by the pension administrator.

(2) Any funds returned to the public employee pursuant to subdivision (d) shall be disbursed by electronic funds transfer to an account of the public employee, in a manner conforming with the requirements of the Internal Revenue Code, and the public retirement system shall notify the court and the district attorney at least three business days before that disbursement of funds.

(3) For the purposes of this subdivision, a "distribution event" means any of the following:

- (A) Separation from employment.
- (B) Death of the member.
- (C) Retirement of the member.

(e) (1) Upon conviction, a public employee as described in subdivision (b) and the prosecuting agency shall notify the public employer who employed the public employee at the time of the commission of the felony within 60 days of the felony conviction of all of the following information:

- (A) The date of conviction.
- (B) The date of the first known commission of the felony.

(2) The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) The public employer that employs or employed a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of that public employee's

JUDGES' RETIREMENT SYSTEM II

conviction within 90 days of the conviction. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(g) A public retirement system may assess a public employer a reasonable amount to reimburse the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

(h) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to do either of the following:

(1) Recover the forfeited rights and benefits as adjusted for the contributions received pursuant to subdivision (d).

(2) Redeposit those contributions and interest that would have accrued during the forfeiture period, as determined by the system actuary, and then recover the full amount of the forfeited rights and benefits.

(i) The forfeiture of rights and benefits provided in this section, with respect to judges, are in addition to and supplement the forfeitures and other requirements provided in Section 75033.2, 75062, 75526, or 75563. If there is a conflict between this section and Section 75033.2, 75062, 75526, or 75563, the provisions that result in the greatest forfeiture or provide the most stringent procedural requirements to the claim of a judge shall apply.

(j) A public employee first employed by a public employer or first elected or appointed to an office on or after January 1, 2013, shall be subject to Section 7522.74.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013; and by Stats. 2014, Ch. 238.)

**§ 7522.74. Retirement Benefits Forfeiture Due to Felony Conviction—New Members on and after January 1, 2013**

(a) This section shall apply to a public employee first employed by a public employer or first elected or appointed to an office on or after January 1, 2013, and on and after that date, Section 7522.70 shall not apply.

(b) (1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(2) If a public employee who has contact with children as part of his or her official duties is convicted of a felony that was committed within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties, he or she shall forfeit all accrued rights and

JUDGES' RETIREMENT SYSTEM II

benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(c) (1) A member shall forfeit all the rights and benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The rights and benefits shall remain forfeited notwithstanding any reduction in sentence or expungement of the conviction following the date of the member's conviction. Rights and benefits attributable to service performed prior to the date of the first commission of the felony for which the member was convicted shall not be forfeited as a result of this section.

(2) Paragraph (1) shall apply to the extent permissible by law.

(3) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d) (1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the public employee upon the occurrence of a distribution event unless otherwise ordered by a court or determined by the pension administrator.

(2) Any funds returned to the public employee pursuant to subdivision (d) shall be disbursed by electronic funds transfer to an account of the public employee, in a manner conforming with the requirements of the Internal Revenue Code, and the public retirement system shall notify the court and the district attorney at least three business days before that disbursement of funds.

(3) For the purposes of this subdivision, a "distribution event" means any of the following:

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

(e) (1) Upon conviction, a public employee as described in subdivision (b) and the prosecuting agency shall notify the public employer who employed the public employee at the time of the commission of the felony within 60 days of the felony conviction of all of the following information:

(A) The date of conviction.

(B) The date of the first known commission of the felony.

(2) The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) The public employer that employs or employed a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of that public employee's conviction within 90 days of the conviction. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

JUDGES' RETIREMENT SYSTEM II

(g) A public retirement system may assess a public employer a reasonable amount to reimburse the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

(h) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to do either of the following:

(1) Recover the forfeited rights and benefits as adjusted for the contributions received pursuant to subdivision (d).

(2) Redeposit those contributions and interest that would have accrued during the forfeiture period, as determined by the system actuary, and then recover the full amount of the forfeited rights and benefits.

(i) The forfeiture of rights and benefits provided in this section, with respect to judges, are in addition to and supplement the forfeitures and other requirements provided in Section 75033.2, 75062, 75526, or 75563. If there is a conflict between this section and Section 75033.2, 75062, 75526, or 75563, the provisions that result in the greatest forfeiture or provide the most stringent procedural requirements to the claim of a judge shall apply.

(j) A public employee first employed by a public employer or first elected or appointed to an office before January 1, 2013, shall be subject to Section 7522.72.

(Added by Stats. 2012, Ch. 296; amended by Stats. 2013, Ch. 528, effective 10/4/2013; and by Stats. 2014, Ch. 238.)



JUDGES' RETIREMENT SYSTEM II

**Judges' Retirement System II Index**

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**A**

**ADMINISTRATION OF PROVISIONS, § 75505**

**AGE OF RETIREMENT**

Eligibility to retire, § 75522

**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;  
§ 75571.5

Monthly allowance limitations for surviving  
spouse, § 75570.5

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

**COMMUNITY PROPERTY—Cont'd**

Separation of community property, § 75551

Determining member rights, § 75553

**COMPENSATION**

**Final compensation**

Concurrent retirement with other retirement  
systems, § 20639

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

## JUDGES' RETIREMENT SYSTEM II

### DEFINITIONS—Cont'd

Judge, § 75502  
Member  
    Community property, § 75550  
Nonmember  
    Community property, § 75550  
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  
    Reinstatement from retirement and restoration to membership, § 75580.5  
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

### DOMESTIC PARTNERSHIPS

References to spouse, surviving spouse or marriage  
    Applicability to domestic partnerships, § 75502

## 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

Reinstatement from retirement and restoration to membership, § 75580.5

## 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  
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

JUDGES' RETIREMENT SYSTEM II

**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  
Eligibility to retire, § 75522  
Felony conviction or plea  
Effect on retirement, § 75526  
Limitation on benefits, § 75527  
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;  
§ 75571.5  
Monthly allowance limitations for surviving  
spouse, § 75570.5  
Waiving increase, § 75573

**PENSION REFORM ACT OF 2013, § 7522 to  
§ 7522.74**

**PRIOR SERVICE CREDIT**

Military service, § 75506.6  
Subordinate judicial officers, § 75506.5

**R**

**REFEREES**

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

**REINSTATEMENT FROM RETIREMENT,  
§ 75580.5**

**REPORTS**

Failure of county to submit timely report, § 75612

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

Reinstatement from retirement and restoration to  
membership, § 75580.5

**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;  
§ 75571.5  
Monthly allowance limitations for surviving spouse,  
§ 75570.5  
Waiving increase, § 75573

**SPOUSES**

References to spouse, surviving spouse or marriage  
Applicability to domestic partnerships, § 75502

**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**