AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 2404

Introduced by Assembly Member Cooley

February 19, 2016

An act to amend Sections 21356, 21357, 21385, 21450, 21451, 21452, 21453, 21454, 21455, 21456, 21457, 21458, 21459, 21460, 21461, 21461.5, 21462, 21463, 21464, 21465, 21492, 21503, 21504, 21505, 21530, 21547, 21547.7, 21548, 21604, 21625, 21628, 21629, 21630, 21631, 21632, 21633, 21752, 75070, 75071, 75073, 75094, 75522, 75570, 75571, 75573, and 75590, to amend the heading of Article 6 (commencing with Section 21450) of Chapter 13 of Part 3 of Division 5 of Title 2 of, to add Sections 75070.5, 75071.5, 75570.5, and 75571.5 to, and to add Article 7 (commencing with Section 21470) to Chapter 13 of Part 3 of Division 5 of Title 2 of, the Government Code, relating to retirement benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 2404, as amended, Cooley. Public Employees' Retirement System: optional settlements.

Existing law creates the Public Employees' Retirement System (PERS), the Judges' Retirement System, and the Judges' Retirement System II, all of which are administrated by the Board of Administration of the Public Employees' Retirement System. Existing law permits a member of the Public Employees' Retirement System to elect from among several optional settlements for the purpose of structuring his or her retirement allowance, which may result in a reduction of the allowance paid to the member in relation to the payments to his or her beneficiary after the member's death. Existing law includes among these options the following: optional settlement 1, which provides for payment of a retirement allowance until death and the payment of any remaining contributions at death to his or her beneficiary or estate; optional settlement 2, which provides an allowance for life to the member and thereafter to his or her beneficiary; optional settlement 3, which provides an allowance for life to the member and thereafter 1/2 of his or her allowance to his or her beneficiary; optional settlement 4, which provides for such other benefits that are the actuarial equivalent of a member's retirement allowance, subject to approval of the board and that the benefits payable not exceed actuarial equivalent of benefits under optional settlement 2, as specified; and optional settlement 5, which provides for a partial present distribution of the actuarial present value of a portion of a member's unmodified monthly allowance, as specified. Existing law entitles a member to elect certain variations within these settlements and, in certain instances, to a recalculated, increased allowance if the beneficiary predeceases the member, subject to a specified, sinking percentage. Existing *law* similarly permits a member of the Judges' Retirement System or the Judges' Retirement System II to select from various optional settlements for the purpose of structuring his or her retirement benefits.

This bill would limit the application of the optional settlements and variations described above to PERS members who retire on or before December 31, 2017. For members who retire on or after January 1, 2018, the bill would revise and recast the optional retirement settlements, which would be termed the Return of Remaining Contributions Option 1, the 100 Percent Beneficiary Option 2, the 100 Percent Beneficiary Option 2 with Benefit Allowance Increase, the 50 Percent Beneficiary Option 3, the 50 Percent Beneficiary Option 3 with Benefit Allowance Increase, and the Flexible Beneficiary Option 4. The bill would revise and bring forward various administrative provisions in connection with these settlements, including those relating to adjustments of actuarial equivalents by the board, the effective dates for elections and revocations and dates of payments, the effect of dissolution of marriage, and of a beneficiary predeceasing a member, among others. The bill would similarly limit application of current optional settlements and variations described above to members of the Judges' Retirement System or the Judges' Retirement System II who retire on or before December 31, 2017, and would provide to members of those systems who retire on and after January 1, 2018, optional retirement settlements analogous to those provided to PERS members, as described above. The bill would make conforming and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 21356 of the Government Code is amended to read:

21356. (a) A member who elects, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Sections 21110 through 21115, to participate in partial service retirement, while so participating, shall receive a reduced service retirement allowance. The reduced service retirement allowance shall be the amount of the service retirement allowance to which the employee would otherwise have been entitled had he or she fully retired on the effective date of the partial service retirement, reduced by the percentage of the employee's full-time work which the employee has elected to work while on partial service retirement.

(b) Article 6 (commencing with Section 21450) and Article 7 (commencing with Section 21470) shall not apply to an employee who is participating in reduced worktime for partial service retirement.

(c) For a member who elects pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Sections 21110 through 21115 to become fully retired, the current service pension, or current and prior service pensions, as the case may be, upon his or her full service retirement shall be (1) the sum of a current service pension calculated on the basis of service rendered during participation in reduced worktime in accordance with the formula applicable to his or her current service pension, plus his or her current service pension, or current and prior service pensions, as the case may be, as it was prior to his or her full service retirement, provided that full service retirement occurs before he or she renders, while participating in reduced worktime for partial service retirement, one year of state service credited under this system; or (2) if he or she has rendered one year or more of state service while participating in reduced worktime for partial service retirement, a current service pension, or current and prior service pensions, as the case may be, based on the total years of service with which the member is entitled to be credited, calculated on the basis of the formula currently applicable to the employment in which the service was rendered. A member shall receive service credit for service during participation in reduced worktime for partial retirement and service credited at the time of the election to participate in reduced worktime for partial retirement.

SEC. 2. Section 21357 of the Government Code is amended to read:

21357. (a) For a member reinstated from service retirement or partial service retirement, the current service pension, or current and prior service pensions, as the case may be, upon his or her service retirement subsequent to the reinstatement, shall be the sum of (1) a current service pension calculated on the basis of service rendered after reinstatement in accordance with the formula applicable to him or her in that service and membership, plus, (2) if the subsequent retirement occurs before he or she renders, after his or her reinstatement, at least one year of state service credited under this system, or if the subsequent service or disability retirement occurs after his or her reinstatement from service or disability retirement pursuant to an election under Section 21465 or 21483, his or her current service pension, or current and prior service pensions, as the case may be, as it was prior to his or her reinstatement, adjusted for any service on which the pension was based that was included in coverage of the federal system during reinstatement according to the formula applicable to the service in employment for which he or she was retired, and further adjusted according to any change after reinstatement in the provisions governing the calculation of his or her pension that would have applied to him or her had he or she continued in retirement but been subject to the formula applied in the first adjustment; or, for state miscellaneous and state industrial service subject to Section 21076, in lieu of (2), plus (3) a current service pension, or current and prior service pensions, as the case may be, as it would have been prior to his or her reinstatement under the formula applicable to Section 21076, adjusted for any service on which the pension was based that was included in coverage of the federal system during reinstatement according to the formula applicable to the service in employment for which he or she was retired, and further adjusted according to any change after reinstatement in the provisions governing the calculations of his or her pension that would have applied to him or her had he or she continued in retirement and been subject to the formula applicable to Section 21076, or if he or she has rendered one year or more of state service after reinstatement, in lieu of (2) or (3), plus (4), a current service pension based on current service rendered prior to reinstatement, calculated on the basis of the formula currently applicable to the employment in which the service was rendered but on the basis of an age taken to the preceding completed quarter year but not less than the minimum retirement age applicable to him or her at his or her last retirement and determined by deducting from his or her age at his or her subsequent retirement, the aggregate time during which he or she was under retirement. For a member reinstated from nonindustrial disability retirement, the current service pension upon his or her service retirement after attaining an age one year less than the minimum age at which he or she could have retired without an actuarial discount because of age in the employment from which he or she was last retired, or upon his or her disability retirement after attaining the minimum age, and subsequent to reinstatement, shall be calculated in the manners described in the preceding sentence, but the age determined upon subsequent retirement after rendering at least one year of state service credited under this system shall not be taken at less than one year less than the minimum age if the subsequent retirement is for service, or the minimum age if the retirement is for disability.

(b) The current service pension otherwise payable under this section to a member whose allowance prior to reinstatement was paid pursuant to his or her election under Section 21461, 21461.5, 21479, or 21480 shall be reduced by the actuarial equivalent, on the date of retirement subsequent to reinstatement, of the amount (converted as below), if any, by which:

(1) The total amount paid in the period during which a temporary annuity was included in the payments, reduced by the total amount that would have been payable during that period had the election not been made, exceeds

(2) The excess of the total amount that would have been payable, had the election not been made, during the time subsequent to that period and prior to reinstatement, over the total amount actually paid during that time.

The amount determined by the above formula shall be converted to an amount equaling the actuarial equivalent on the date of reinstatement and this latter amount shall be the basis of the actuarial equivalent on the date of retirement subsequent to reinstatement.

Actuarial equivalents required by this section shall be based on the interest rate and mortality tables in use by this system on the date of retirement subsequent to reinstatement.

(c) Notwithstanding this section, or any other provision of this part, the current service pension payable to any member subject to this section who rendered one year or more of state service credited under this system after reinstatement on retirement for service subsequent to reinstatement from service retirement for any credited service for which a current service pension was paid prior to reinstatement shall not be less than the current service pension that would be payable on the date of the subsequent retirement had the member not been reinstated. For state miscellaneous and state industrial service subject to Section 21076, the current service pension payable for any credited service for which a current service pension was paid prior to reinstatement shall not be less than the current service pension that would have been payable on the date of the subsequent retirement had the member's retirement been subject to the formula under Section 21076 and had not been reinstated, adjusted, however, by any reduction under this section because of an election under Section 21461, 21461.5, 21479, or 21480 and, for any service so credited that was included in coverage of the federal system during reinstatement, according to the formula applicable to the service in employment from which he or she was retired.

SEC. 3. Section 21385 of the Government Code is amended to read:

21385. The prior service pension of a member reinstated from service retirement, upon his or her subsequent service retirement, shall be in the same amount as his or her prior service pension prior to his or her reinstatement, adjusted for any service on which the pension was based that was included in coverage of the federal system during reinstatement according to the formula applicable to the service in employment from which he or she was retired, and further adjusted according to any change in the provisions governing the calculation of the pensions, using the formula applied in the first adjustment, made after the reinstatement and applicable to pensions being paid at the date of the change if the subsequent retirement occurs before he or she renders after his or her reinstatement at least one year of state service credited under this system. Otherwise, the prior service pension calculated on the basis of an age, taken to the preceding completed quarter year but not less than the minimum retirement age applicable to him or her at his or her last retirement, and determined by deducting from his or her age at his or her subsequent retirement, the aggregate time during which he or she was under retirement. For such a member reinstated from nonindustrial disability retirement, the prior service pension upon his or her service retirement after attaining an age one year less than the minimum age at which he or she could have retired without an actuarial discount because of age in the employment from which he or she was last retired, or upon his or her disability retirement after attaining the minimum age, and subsequent to reinstatement, shall be calculated in the manners described in the preceding sentence, but the age determined upon subsequent retirement after rendering at least one year of state service, shall not be taken at less than one year less than the minimum age if the subsequent retirement is for service, or the minimum age if the retirement is for disability.

The prior service pension otherwise payable under this section to a member whose allowance prior to reinstatement was paid pursuant to his or her election under Section 21461, 21461.5, 21479, or 21480 shall be reduced by the actuarial equivalent, on the date of retirement subsequent to reinstatement, of the amount, if any (converted as below), by which:

(a) The total amount paid in the period during which a temporary annuity was included in the payments, the amount being reduced by the total amount that would have been payable during the period had the election not been made; exceeds

(b) The excess of the total amount that would have been payable, had the election not been made, during the time subsequent to the period and prior to reinstatement over the total amount actually paid during that time.

The amount determined by the above formula shall be converted to an amount equaling the actuarial equivalent on the date of reinstatement. The latter amount shall be the basis of the actuarial equivalent, on the date of retirement subsequent to reinstatement.

Actuarial equivalents required by this section shall be based on the interest rate and mortality tables in use by this system on the date of retirement subsequent to reinstatement.

Notwithstanding this section, or any other provision of this part, the prior service pension payable to any member subject to this section who rendered one year or more of state service credited under this system after reinstatement on retirement for service subsequent to reinstatement from service retirement for any credited service for which a prior service pension was paid prior to reinstatement shall not be less than the prior service pension that would be payable on the date of the subsequent retirement had the member not been reinstated, adjusted, however, by any reduction under this section because of an election under Section 21461, 21461.5, 21479, or 21480 and, for any service so credited that was included in coverage of the federal system during reinstatement, according to the formula applicable to the service in employment from which he or she was retired.

SEC. 4. The heading of Article 6 (commencing with Section 21450) of Chapter 13 of Part 3 of Division 5 of Title 2 of the Government Code is amended to read:

Article 6. Optional Settlements Prior to January 1, 2018

SEC. 5. Section 21450 of the Government Code is amended to read:

21450. This system shall provide to any member who requests materials relating to retirement, a written explanation of the effects, if any, of each possible decision relating to the selection of optional settlements, beneficiaries, and survivor benefits upon health benefits that are provided pursuant to Part 5 (commencing with Section 22750).

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

SEC. 6. Section 21451 of the Government Code is amended to read:

21451. In lieu of the retirement allowance for his or her life alone, a member or retired member may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in this article. The election or revocation or change thereof, with respect to a member subject to Section 21624, 21629, or 21630 at retirement, shall apply to all of the retirement allowance, if, at the effective date of retirement, the member has no spouse, ~~children~~ *children,* or dependent parents who would qualify for an allowance under Section 21624, 21629, or 21630, as applicable, after the death of the member; or, if at retirement there are persons who would so qualify, then the election, or revocation, or change thereof, with respect to any optional settlement other than optional settlement one, shall apply only to the portion of the allowance that exceeds the amount of the allowance payable to the survivor.

An actuarial equivalent under this article may be adjusted by the board for the intervals and upon the effective dates determined by the board.

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

SEC. 7. Section 21452 of the Government Code is amended to read:

21452. The lesser retirement allowance under an optional settlement elected at retirement for law enforcement members whose retirement is effective prior to October 1, 1965, and who are entitled to receive benefits under the federal system, shall be actuarially equivalent to that part of the retirement allowance that is subject to option pursuant to Section 21451 that would have been payable at retirement had no optional settlement been elected after taking into consideration the reduction in the allowance provided for in former Section 21252.10, as amended by Chapter 1657 of the Statutes of 1971. Upon the election of an optional settlement by a member who has not attained the federal retirement age the board shall estimate the federal benefit upon the basis of information then available to it. If the death of the member should occur before he or she has attained the federal retirement age payments under the optional settlement elected shall be as estimated. If the member attains the federal retirement age, the board shall then recalculate the lesser retirement allowance payable under the optional settlement upon the basis of the age of the member and the beneficiary on the effective date of retirement, actuarial tables then in use and the federal benefit.

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

SEC. 8. Section 21453 of the Government Code is amended to read:

21453. An election, revocation, or change of election shall be made within 30 calendar days after the making of the first payment on account of any retirement allowance or, in the event of a change of retirement status after retirement, within 30 calendar days after the making of the first payment on account of any retirement allowance following the change in retirement status. "Change in retirement status" includes, but is not limited to, change from service to disability retirement, from disability retirement to service retirement, from nonindustrial disability retirement to industrial disability retirement, or from industrial to nonindustrial disability retirement.

For purposes of this section, payment shall be deemed to have been made on the date a warrant is mailed, or the date funds are electronically transferred to a bank, savings and loan association, or credit union account for deposit in the member's account.

This section shall not be construed to authorize a member to change his or her retirement status after the election, revocation, or change of election provided in this section.

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

SEC. 9. Section 21454 of the Government Code is amended to read:

21454. Notwithstanding Section 21453, an election of optional settlement 2 or 3, or optional settlement 4 involving life contingency in which a spouse is designated as the beneficiary, may be modified as provided in this section in the event of a dissolution or annulment of the marriage or a legal separation in which the division of the community property awards the total interest in the retirement system to the retired member. The modification shall provide that payment shall be continued during the retired person's lifetime in accordance with the optional settlement then in effect but that no monthly allowance shall be paid following the retired person's death, and in lieu thereof there shall be paid in a lump sum to the member's estate or a beneficiary designated by him or her the amount, if any, by which the member's accumulated contributions at retirement exceed the total payments made to the retired person to the date of his or her death.

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

SEC. 10. Section 21455 of the Government Code is amended to read:

21455. Optional settlement 1 consists of the right to have a retirement allowance paid to the member until his or her death and if the member 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 beneficiary or estate.

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

SEC. 11. Section 21456 of the Government Code is amended to read:

21456. Optional settlement 2 consists of the right to have a retirement allowance paid to a member until his or her death and thereafter to his or her beneficiary for life.

If the beneficiary predeceases the member and the member elected this section to be effective on or after January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary, to reflect the benefit that would have been paid had the member not selected an optional settlement.

If a nonspouse beneficiary waives entitlement to this allowance and the member elected this section to be effective on or after January 1, 1993, the member's allowance shall be adjusted effective the first of the month following the receipt of the waiver of the allowance entitlement from the nonspouse beneficiary to reflect the benefit that would have been paid had the member not selected an optional settlement.

If the marriage of a member is dissolved or annulled or there is a legal separation between the member and the beneficiary spouse and the judgment dividing the community property awards the total interest in this system to the member, and the member elects this section to be effective on or after January 1, 1994, the member's allowance shall be adjusted effective the first of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the member not selected an optional settlement.

If the beneficiary spouse predeceases the member on or after January 1, 1990, and the member elected this section to be effective prior to January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary spouse to reflect a new allowance as calculated below.

If the nonspouse beneficiary waives entitlement to this allowance on or after January 1, 1993, and the member elected this section to be effective prior to January 1, 1993, the member's allowance shall be adjusted, effective the first of the month following receipt by the board of the waiver of entitlement from the nonspouse beneficiary, to reflect a new allowance as calculated below.

If the marriage of a member is dissolved or annulled or there is a legal separation between the member and the beneficiary spouse and the judgment dividing the community property awards the total interest in the retirement system to the member, and the member elected this section to be effective prior to January 1, 1994, the member's allowance shall be adjusted, effective the first of the month following the filing of the judgment with the board to reflect a new allowance as calculated below. The qualifying event shall be the date on which the judgment is filed with the board.

A percentage factor shall be applied to the difference between the member's unmodified allowance and optional settlement 2 allowance, both of which shall include applicable cost-of-living increases. The product of this equation shall then be added to the member's optional settlement 2 allowance and the total amount shall become the member's base allowance. The percentage factor applicable to each member shall be determined by the time between the member's retirement effective date and the date of death of the beneficiary spouse or by the time between the member's retirement effective date and the date of the receipt of either the waiver of the allowance entitlement or the judgment of dissolution, annulment, or legal separation according to the following table:

Period between the member's retirement effective date and the date of the qualifying event	Percentage

Less than 12 months	95%
12 months through 23 months	85%
24 months through 35 months	75%
36 months through 47 months	65%
48 months through 59 months	55%
60 months through 71 months	45%
72 months through 83 months	35%
84 months through 95 months	25%
96 months through 107 months	15%
108 months through 119 months	5%
120 months or more	0%

Nothing in this section shall result in additional cost to the employer.

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

SEC. 12. Section 21457 of the Government Code is amended to read:

21457. Optional settlement 3 consists of the right to have a retirement allowance paid to a member until his or her death, and thereafter to have one-half of his or her retirement allowance paid to his or her beneficiary for life.

If the beneficiary predeceases the member and the member elected this section to be effective on or after January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary, to reflect the benefit that would have been paid had the member not selected an optional settlement.

If the marriage of a member is dissolved or annulled or there is a legal separation between the member and the beneficiary spouse and the judgment dividing the community property awards the total interest in this system to the member, and the member elects this section to be effective on or after January 1, 1994, the member's allowance shall be adjusted effective the first of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the member not selected an optional settlement.

If a nonspouse beneficiary waives entitlement to this allowance and the member elected this section to be effective on or after January 1, 1993, the member's allowance shall be adjusted, effective the first of the month following the receipt of the waiver of the allowance entitlement from the nonspouse beneficiary, to reflect the benefit that would have been paid had the member not selected an optional settlement.

If the beneficiary spouse predeceases the member on or after January 1, 1990, and the member elected this section to be effective prior to January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary spouse to reflect a new allowance as calculated below.

If the marriage of a member is dissolved or annulled or there is a legal separation between the member and the beneficiary spouse and the judgment dividing the community property awards the total interest in the retirement system to the member, and the member elected this section to be effective prior to January 1, 1994, the member's allowance shall be adjusted, effective the first of the month following the filing of the judgment with the board to reflect a new allowance as calculated below. The qualifying event shall be the date on which the judgment is filed with the board.

If the nonspouse beneficiary waives entitlement to this allowance on or after January 1, 1993, and the member elected this section to be effective prior to January 1, 1993, the member's allowance shall be adjusted, effective the first of the month following receipt by the board of the waiver of entitlement from the nonspouse beneficiary, to reflect a new allowance as calculated below.

A percentage factor shall be applied to the difference between the member's unmodified allowance and optional settlement 3 allowance, both of which shall include applicable cost-of-living increases. The product of this equation shall then be added to the member's optional settlement 3 allowance and the total amount shall become the member's base allowance. The percentage factor applicable to each member shall be determined by the time between the member's retirement effective date and the date of death of the beneficiary spouse or by the time between the member's retirement effective date and the date of the receipt of either the waiver of the allowance entitlement or the judgment of dissolution, annulment, or legal separation according to the following table:

Period between the member's retirement effective date and the date of the qualifying	Percentage

event	
Less than 12 months	95%
12 months through 23 months	85%
24 months through 35 months	75%
36 months through 47 months	65%
48 months through 59 months	55%
60 months through 71 months	45%
72 months through 83 months	35%
84 months through 95 months	25%
96 months through 107 months	15%
108 months through 119 months	5%
120 months or more	0%

Nothing in this section shall result in additional cost to the employer.

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

SEC. 13. Section 21458 of the Government Code is amended to read:

21458. Optional settlement 4 consists of such other benefits as are the actuarial equivalent of a member's retirement allowance, that he or she may select subject to the approval of the board. However, the actuarial equivalent of benefits under this optional settlement payable to the member's beneficiary shall not exceed the actuarial equivalent of the benefits which would be payable to that beneficiary if the member had elected optional settlement 2 and Section 21459.

The board shall include in each member benefit booklet a specific illustration of the benefits available under optional settlement 4.

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

SEC. 14. Section 21459 of the Government Code is amended to read:

21459. A member who elects to receive optional settlement 2 or 3 may concurrently and irrevocably elect to waive the provision for an increase to his or her allowance due to the death of his or her beneficiary and shall, instead, have his or her allowance based upon the waiver of this benefit.

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

SEC. 15. Section 21460 of the Government Code is amended to read:

21460. A member who elects to receive the unmodified allowance or optional settlement 1, or optional settlement 2, 3, or 4 with or without making the election specified in Section 21459, and who names his or her spouse as the option beneficiary, and whose spouse is also an eligible survivor for the benefits provided by Section 21624, 21626, 21627, 21628, 21629, or 21630, and where the total benefit to the surviving spouse is at least 50 percent of the member's unmodified allowance, may concurrently and irrevocably elect to have his or her allowance paid as a "qualified joint and survivor annuity." Notwithstanding any other provision of this part, upon the election, the survivor allowance shall be paid only to the member's spouse and shall continue to be paid upon the remarriage of the spouse. Any cost due to this election shall be paid by the member through an actuarial reduction to his or her allowance.

For purposes of this section, a member's retirement allowance shall be determined without regard to any limitation required pursuant to Section 415 of Title 26 of the United States Code but the amount payable to the spouse shall be subject to those limits as if it were the retirement allowance of the member.

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

SEC. 16. Section 21461 of the Government Code is amended to read:

21461. (a) A member retiring for service may elect to have the actuarial equivalent of his or her unmodified service retirement allowance paid in two parts as follows:

(1) A temporary annuity in an amount specified by the member but which shall not result in a reduction to his or her unmodified allowance by more than 50 percent.

(2) A life income consisting of his or her service retirement annuity plus the pension provided by the actuarial value of his or her current and prior service pensions remaining after providing the temporary annuity in paragraph (1).

(b) The temporary annuity under subdivision (a) shall not be subject to further optional settlement under this article and shall be payable monthly as an addition to the member's monthly life income beginning on his or her effective date of retirement and continuing until the member reaches 59 years and six months of age or any whole age between 60 and 68 years of age, as designated by the member at the time of his or her retirement. If his or her death occurs prior to that age, the commuted value of any remaining installments shall be paid to his or her designated beneficiary in a lump sum.

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

SEC. 17. Section 21461.5 of the Government Code is amended to read:

21461.5. (a) Notwithstanding Section 21461, a member retiring for service who became a member of the system on or after January 1, 2002, and who is covered under the federal system but is not yet receiving a retirement or disability benefit under that system, may elect to have the actuarial equivalent of his or her unmodified service retirement allowance paid in two parts as follows:

(1) A temporary annuity that shall not exceed the primary social security benefit that is anticipated the member shall be entitled to receive at social security retirement age, which age shall be designated by the member.

(2) A life income consisting of the member's service retirement annuity plus the pension provided by the actuarial value of the member's current and prior service pensions remaining after providing the temporary annuity in paragraph (1).

(b) The temporary annuity under paragraph (1) of subdivision (a) shall not be subject to further optional settlement under this article and shall be payable monthly as an addition to the member's monthly life income beginning on the member's effective date of retirement and continuing until the retired member attains the age designated by the member under subdivision (a). If the member dies prior to the designated age, the commuted value of any installments payable for the period remaining until the member would have attained that age shall be paid to the member's designated beneficiary in a lump sum.

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

SEC. 18. Section 21462 of the Government Code is amended to read:

21462. (a) (1) Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or

4, involving a life contingency of the beneficiary, may, if the beneficiary predeceases the member or if the member marries and the former spouse was not named as beneficiary, or, if a former spouse was named, in the event of a dissolution or annulment of the marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary.

(2) Notwithstanding paragraph (1), for an election pursuant to this section that occurs on or after January 1, 2014, a member may name the same beneficiary as previously designated, provided that the resulting benefit to the member and the named beneficiary otherwise meets the requirements of this section.

(b) The election shall be made within 12 months following the death of the beneficiary who predeceased the member or within 12 months of the date of entry of the judgment dividing the community property of the parties, or within 12 months following marriage if the spouse is named as beneficiary. The election shall become effective on the date specified on the election, provided that this date is not earlier than the day following receipt of the election in this system pursuant to this section.

(c) A member who has a qualifying event prior to January 1, 1988, and who fails to elect by January 1, 1989, or a member who has a qualifying event on or after January 1, 1988, and who fails to elect within 12 months, shall retain the right to make an election under this section. However, this election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die prior to the effective date of the election.

(d) This section shall not be construed to mean that designation of a new beneficiary causes the selection of an optional settlement. An optional settlement shall be selected by a member in a writing filed by the member with the board.

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

SEC. 19. Section 21463 of the Government Code is amended to read:

21463. A member who elected to receive optional settlement 2 or 3 and whose beneficiary predeceases him or her, shall be entitled to receive the increased allowance pursuant to Section 21456 or Section 21457, as applicable, unless the member elected to waive the provision for an increase to his or her allowance pursuant to Section 21459.

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

SEC. 20. Section 21464 of the Government Code is amended to read:

21464. Notwithstanding any provision of this part, a retired member who chose no optional settlement or optional settlement 1 at retirement may elect to have the actuarial equivalent, as of the date of the election, of the allowance payable for the remainder of his or her lifetime applied to a lesser allowance during his or her remaining lifetime under one of the optional settlements specified in this article and name his or her spouse as beneficiary.

The election provided by this section is irrevocable and shall be made within 12 months following a member's marriage if the spouse is named as beneficiary. The election shall become effective on the date specified on the election, provided that this date is not earlier than the day following receipt of the election in this system pursuant to this section.

A member who married prior to or after January 1, 1988, who fails to elect within 12 months, shall retain the right to make an election under this section. However, the election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die prior to the effective date of the election.

This section shall not be construed to mean that designation of a new beneficiary causes the selection of an optional settlement. An optional settlement shall be selected by a member in a writing filed by the member with the board.

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

SEC. 21. Section 21465 of the Government Code is amended to read:

21465. (a) Optional settlement 5 consists of a partial distribution of the actuarial present value of the portion, as specified in this section, of the member's unmodified monthly allowance, as prescribed in Section 21362, 21362.2, 21363, 21363.1, 21363.4, or 21423, when a service retirement allowance is payable. The actuarial present value shall be based upon the investment return and postretirement mortality assumptions adopted by the board for that purpose. The member may elect to receive the actuarial present value of no less than 20 percent and no more than 50 percent of his or her unmodified allowance. The member may elect to receive the remaining portion of the unmodified allowance, not distributed as a lump-sum payment, under one of the settlements specified in this article for the remainder of his or her lifetime and thereafter to his or her designated beneficiary, unless this amount is solely limited to the survivor continuance portion. The portion of the unmodified allowance equivalent to the survivor continuance pursuant to Section 21624 may not be distributed as a lump-sum payment. The benefits provided under this section may not exceed the benefits that would have otherwise been provided under any other section in this article.

(b) This section shall only apply to the following members who retire on or after January 1, 1999, and on or before December 31, 2017:

(1) State peace officer/firefighter members in State Bargaining Unit 6.

(2) State peace officer/firefighter members in State Bargaining Unit 8 and state patrol members in State Bargaining Unit 5, if a memorandum of understanding has been agreed upon by the state and the recognized employee organization to become subject to this section.

(3) This section shall also apply to state peace officer/firefighter members and state patrol members in related supervisory and confidential positions, if the Department of Human Resources has approved their inclusion.

SEC. 22. Article 7 (commencing with Section 21470) is added to Chapter 13 of Part 3 of Division 5 of Title 2 of the Government Code, to read:

Article 7. Optional Settlements On and After January 1, 2018

21470. This system shall provide to any member who retires on or after January 1, 2018, and requests materials relating to retirement, a written explanation of the effects, if any, of each possible decision relating to the selection of optional settlements, beneficiaries, and survivor benefits upon health benefits that are provided pursuant to Part 5 (commencing with Section 22750).

21471. (a) The unmodified allowance consists of the right to have the maximum retirement allowance paid to a member until his or her death. There is no continuing allowance to a beneficiary and there is no return of unused accumulated contributions after the death of the member.

(b) This section shall apply to any member who retires on or after January 1, 2018.

21471.1. (a) In lieu of electing the unmodified allowance, a member may elect to have the actuarial equivalent of his or her unmodified allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in this article. The election with respect to a member subject to Section 21624, 21629, or 21630 at retirement, shall apply to all of the retirement allowance, if, at the effective date of retirement, the member has no spouse, children, or dependent parents who would qualify for an allowance under Section 21624, 21629, or 21630, as applicable, after the death of the member; or, if at retirement there are persons who would so qualify, then the election with respect to any optional settlement other than the optional settlement in Section 21474, shall apply only to the portion of the allowance that exceeds the amount of the allowance payable to the survivor.

(b) An actuarial equivalent under this article may be adjusted by the board for the intervals and upon the effective dates determined by the board.

(c) This section shall apply to any member who retires on or after January 1, 2018.

21471.2. If a member elects an optional settlement that provides for a monthly allowance for his or her named beneficiary or beneficiaries, the combined allowance payable to the member's named beneficiary or beneficiaries and the member's survivor pursuant to Section 21624, 21629, or 21630, if applicable, cannot exceed the amount of the member's monthly allowance.

21472. (a) An election, revocation, or change of election shall be made within 30 calendar days after the making of the first payment on account of any retirement allowance or, in the event of a change of retirement status after retirement, within 30 calendar days after the making of the first payment on account of any retirement allowance following the change in retirement status. "Change in retirement status" includes, but is not limited to, change from service to disability retirement, from disability retirement to service retirement, from nonindustrial disability retirement to industrial disability retirement, or from industrial to nonindustrial disability retirement

(b) For purposes of this section, payment shall be deemed to have been made on the date a warrant is mailed, or the date funds are electronically transferred to a bank, savings and loan association, or credit union account for deposit in the member's account.

(c) This section shall not be construed to authorize a member to change his or her retirement status after the election, revocation, or change of election provided in this section.

(d) This section shall apply to any member who retires on or after January 1, 2018.

21473. (a) Notwithstanding Section 21472, the election of an optional settlement in Section 21475, 21475.5, 21476, 21476.5, or 21477 in which a spouse is designated as the beneficiary, may be modified as provided in this section in the event of a dissolution or annulment of the marriage or a legal separation in which the division of the community property awards the total interest in the retirement system to the retired member. The modification shall provide that payment shall be continued during the retired member's lifetime in accordance with the optional settlement then in effect but that no monthly allowance shall be paid following the retired member's death, and in lieu thereof there shall be paid in a lump sum to the member's estate or a beneficiary designated by him or her the amount, if any, by which the member's accumulated contributions at retirement exceed the total payments made to the retired member to the date of his or her death.

(b) This section shall apply to any member who retires on or after January 1, 2018.

21474. (a) The Return of Remaining Contributions Option 1 consists of the right to have a retirement allowance paid to a member until his or her death 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 beneficiary or beneficiaries.

(b) This section shall apply to any member who retires on or after January 1, 2018.

21475. (a) The 100 Percent Beneficiary Option 2 consists of the right to have a retirement allowance paid to a member until his or her death, and thereafter to have the same monthly allowance paid to his or her named beneficiary for life; provided that with respect to a member subject to Section 21624, 21629, or 21630 at retirement, the named beneficiary shall receive a monthly allowance equal to that portion of the member's allowance that exceeds the amount of the allowance deemed payable to a survivor.

(b) Upon the death of both the member and the named beneficiary, any remaining balance of the member's accumulated contributions at retirement not used to fund the allowances paid to the member and the named beneficiary will be paid in a lump sum to a secondary beneficiary or beneficiaries named by the member.

(c) This section shall apply to any member who retires on or after January 1, 2018.

21475.5. (a) The 100 Percent Beneficiary Option 2 with Benefit Allowance Increase consists of the right to have a retirement allowance paid to a member until his or her death and thereafter to have the same monthly allowance paid to his or her named beneficiary for life; provided that with respect to a member subject to Section 21624, 21629, or 21630 at retirement, the named beneficiary shall receive a monthly allowance equal to that portion of the member's allowance that exceeds the amount of the allowance deemed payable to a survivor.

(1) If the beneficiary predeceases the ~~member and the member elected this section to be effective on or after January 1, 1990,~~ *member*, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary, to reflect the benefit that would have been paid had the member not selected an optional settlement.

(2) If a nonspouse beneficiary waives entitlement to this ~~allowance and the member elected this section to be effective on or after January 1, 1993,~~ *allowance,* the member's allowance shall be adjusted effective the first of the month following the receipt of the waiver of the allowance entitlement from the nonspouse beneficiary to reflect the benefit that would have been paid had the member not selected an optional settlement.

(3) If the marriage of a member is dissolved or annulled or there is a legal separation between the member and the beneficiary spouse and the judgment dividing the community property awards the total interest in this system to the member~~, and the member elects this section to be effective on or after January 1, 1994,~~ the member's allowance shall be adjusted effective the first of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the member not selected an optional settlement.

~~(4) If the beneficiary spouse predeceases the member on or after January 1, 1990, and the member elected this section to be effective prior to January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary spouse to reflect a new allowance as calculated below.~~

~~(5) If the nonspouse beneficiary waives entitlement to this allowance on or after January 1, 1993, and the member elected this section to be effective prior to January 1, 1993, the member's allowance shall be adjusted, effective the first of the month following receipt by the board of the waiver of entitlement from the nonspouse beneficiary, to reflect a new allowance as calculated below.~~

~~(6) If the marriage of a member is dissolved or annulled or there is a legal separation between the member and the beneficiary spouse and the judgment dividing the community property awards the total interest in the retirement system to the member, and the member elected this section to be effective prior to January 1, 1994, the member's allowance shall be adjusted, effective the first of the month following the filing of the judgment with the board to reflect a new allowance as calculated below. The qualifying event shall be the date on which the judgment is filed with the board.~~

~~(7) If applicable, a percentage factor shall be applied to the difference between the member's unmodified allowance and~~

~~optional settlement 2, both of which shall include applicable cost-of-living increases. The product of this equation shall then be added to the member's optional settlement 2 allowance, and the total amount shall become the member's base allowance. The percentage factor applicable to each member shall be determined by the time between the member's retirement effective date and the date of death of the beneficiary spouse or by the time between the member's retirement effective date and the date of the receipt of either the waiver of the allowance entitlement or the judgment of dissolution, annulment, or legal separation according to the following table:~~

~~Period between the member's retirement effective date and the date of the qualifying event~~	~~Percentage~~
~~Less than 12 months~~	~~95%~~
~~12 months through 23 months~~	~~85%~~
~~24 months through 35 months~~	~~75%~~
~~36 months through 47 months~~	~~65%~~
~~48 months through 59 months~~	~~55%~~
~~60 months through 71 months~~	~~45%~~
~~72 months through 83 months~~	~~35%~~
~~84 months through 95 months~~	~~25%~~
~~96 months through 107 months~~	~~15%~~
~~108 months through 119 months~~	~~5%~~
~~120 months or more~~	~~0%~~

(b) Nothing in this section shall result in additional cost to the employer.

(c) This section shall apply to any member who retires on or after January 1, 2018.

21476. (a) The 50 Percent Beneficiary Option 3 consists of the right to have a retirement allowance paid to a member until his or her death, and thereafter to have one-half of the member's monthly allowance paid to his or her named beneficiary for life; provided that with respect to a member subject to Section 21624, 21629, or 21630 at retirement, the named beneficiary shall receive a monthly allowance equal to one-half of that portion of the member's allowance that exceeds the amount of the allowance deemed payable to a survivor.

(b) Upon the death of both the member and the named beneficiary, any remaining balance of the member's accumulated contributions at retirement not used to fund the allowances paid to the member and the named beneficiary will be paid in a lump sum to the secondary beneficiary or beneficiaries named by the member.

(c) This section shall apply to any member who retires on or after January 1, 2018.

21476.5. (a) The 50 Percent Beneficiary Option 3 with Benefit Allowance Increase consists of the right to have a retirement allowance paid to a member until his or her death, and thereafter to have one-half of the member's monthly allowance paid to his or her named beneficiary for *life;* provided that with respect to a member subject to Section 21624, 21629, or 21630 at retirement, the named beneficiary shall receive a monthly allowance equal to one-half of that portion of the member's allowance that exceeds the amount of the allowance deemed payable to a survivor.

(1) If the beneficiary predeceases the ~~member and the member elected this section to be effective on or after January 1, 1990,~~ *member*, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary, to reflect the benefit that would have been paid had the member not selected an optional settlement.

(2) If the marriage of a member is dissolved or annulled or there is a legal separation between the member and the beneficiary spouse and the judgment dividing the community property awards the total interest in this system to the member, ~~and the member elects this section to be effective on or after January 1, 1994,~~ the member's allowance shall be adjusted effective the first of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the member not selected an optional settlement.

(3) If a nonspouse beneficiary waives entitlement to this ~~allowance and the member elected this section to be effective on or after January 1, 1993,~~ *allowance*, the member's allowance shall be adjusted, effective the first of the month following the receipt of the waiver of the allowance entitlement from the nonspouse beneficiary, to reflect the benefit that would have been paid had the member not selected an optional settlement.

~~(4) If the beneficiary spouse predeceases the member on or after January 1, 1990, and the member elected this section to be effective prior to January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary spouse to reflect a new allowance as calculated below.~~

~~(5) If the marriage of a member is dissolved or annulled or there is a legal separation between the member and the beneficiary spouse and the judgment dividing the community property awards the total interest in the retirement system to the member, and the member elected this section to be effective prior to January 1, 1994, the member's allowance shall be adjusted, effective the first of the month following the filing of the judgment with the board to reflect a new allowance as calculated below. The qualifying event shall be the date on which the judgment is filed with the board.~~

~~(6) If the nonspouse beneficiary waives entitlement to this allowance on or after January 1, 1993, and the member elected this section to be effective prior to January 1, 1993, the member's allowance shall be adjusted, effective the first of the month following receipt by the board of the waiver of entitlement from the nonspouse beneficiary, to reflect a new allowance as calculated below.~~

~~(7) If applicable, a percentage factor shall be applied to the difference between the member's unmodified allowance and optional settlement 3 allowance, both of which shall include applicable cost-of-living increases. The product of this equation shall then be added to the member's optional settlement 3 allowance, and the total amount shall become the member's base allowance. The percentage factor applicable to each member shall be determined by the time between the member's retirement effective date and the date of death of the beneficiary spouse or by the time between the member's retirement effective date and the date of the receipt of either the waiver of the allowance entitlement or the judgment of dissolution, annulment, or legal separation according to the following table:~~

~~Period between the member's retirement effective date and the date of the qualifying event~~	~~Percentage~~
~~Less than 12 months~~	~~95%~~

~~12 months through 23 months~~	~~85%~~
~~24 months through 35 months~~	~~75%~~
~~36 months through 47 months~~	~~65%~~
~~48 months through 59 months~~	~~55%~~
~~60 months through 71 months~~	~~45%~~
~~72 months through 83 months~~	~~35%~~
~~84 months through 95 months~~	~~25%~~
~~96 months through 107 months~~	~~15%~~
~~108 months through 119 months~~	~~5%~~
~~120 months or more~~	~~0%~~

(b) Nothing in this section shall result in additional cost to the employer.

(c) This section shall apply to any member who retires on or after January 1, 2018.

21477. (a) The Flexible Beneficiary Option 4 consists of the right to have a retirement allowance paid to a member until his or her death, and thereafter to have a monthly allowance paid to his or her named beneficiary or beneficiaries for life. Subject to Section 21471.2, the member may select the monthly allowance payable to the named beneficiary or beneficiaries from the options below:

(1) Specific Dollar Amount to a Beneficiary or Beneficiaries. The member may specify that upon his or her death after retirement, a monthly allowance in an amount determined by the member be paid to a named beneficiary or beneficiaries for life.

(2) Specific Percentage to a Beneficiary or Beneficiaries. The member may specify that upon his or her death after retirement, a monthly allowance in an amount equivalent to a specified percentage of the member's allowance be paid to a named beneficiary or beneficiaries for life.

(b) This section shall apply to any member who retires on or after January 1, 2018.

21478. (a) A member who elects to receive the unmodified allowance or the optional settlement in Section 21474, or the optional settlement in Section 21475, 21475.5, 21476, 21476.5, or 21477, and who names his or her spouse as the option beneficiary, and whose spouse is also an eligible survivor for the benefits provided by Section 21624, 21626, 21627, 21628, 21629, or 21630, and if the total benefit to the surviving spouse is at least 50 percent of the member's unmodified allowance, may concurrently and irrevocably elect to have his or her allowance paid as a “qualified joint and survivor annuity.” Notwithstanding any other provision of this part, upon the election, the survivor allowance shall be paid only to the member’s spouse and shall continue to be paid upon the remarriage of the spouse. Any cost due to this election shall be paid by the member through an actuarial reduction to his or her allowance.

(b) For purposes of this section, a member’s retirement allowance shall be determined without regard to any limitation required pursuant to Section 415 of Title 26 of the United States Code but the amount payable to the spouse shall be subject to those limits as if it were the retirement allowance of the member.

(c) This section shall apply to any member who retires on or after January 1, 2018.

21479. (a) A member retiring for service may elect to have the actuarial equivalent of his or her unmodified service retirement allowance paid in two parts as follows:

(1) A temporary annuity in an amount specified by the member but which shall not result in a reduction to his or her unmodified allowance by more than 50 percent.

(2) A life income consisting of his or her service retirement annuity plus the pension provided by the actuarial value of his or her current and prior service pensions remaining after providing the temporary annuity in paragraph (1).

(b) The temporary annuity under subdivision (a) shall not be subject to further optional settlement under this article and shall be payable monthly as an addition to the member’s monthly life income beginning on his or her effective date of retirement and continuing until the member reaches 59 years and six months of age or any whole age between 60 and 68 years of age, as designated by the member at the time of his or her retirement. If his or her death occurs prior to that age, the commuted value of any remaining installments shall be paid to his or her designated beneficiary in a lump sum.

(c) This section shall apply to any member who retires on or after January 1, 2018.

21480. (a) Notwithstanding Section 21479, a member retiring for service who became a member of the system on or after January 1, 2002, and who is covered under the federal system but is not yet receiving a retirement or disability benefit under that system, may elect to have the actuarial equivalent of his or her unmodified service retirement allowance paid in two parts as follows:

(1) A temporary annuity that shall not exceed the primary social security benefit that is anticipated the member shall be entitled to receive at social security retirement age, which age shall be designated by the member.

(2) A life income consisting of the member's service retirement annuity plus the pension provided by the actuarial value of the member's current and prior service pensions remaining after providing the temporary annuity in paragraph (1).

(b) The temporary annuity under paragraph (1) of subdivision (a) shall not be subject to further optional settlement under this article and shall be payable monthly as an addition to the member's monthly life income beginning on the member's effective date of retirement and continuing until the retired member attains the age designated by the member under subdivision (a). If the member dies prior to the designated age, the commuted value of any installments payable for the period remaining until the member would have attained that age shall be paid to the member's designated beneficiary in a lump sum.

(c) This section shall apply to any member who retires on or after January 1, 2018.

21481. (a) (1) Notwithstanding any other provision of this part, a member who elected the optional settlement in Section 21475, 21475.5, 21476, 21476.5, or 21477, may, if the beneficiary predeceases the member or if the member marries and the former spouse was not named as beneficiary, or, if a former spouse was named, in the event of a dissolution or annulment of the marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary.

(2) Notwithstanding paragraph (1), for an election pursuant to this section that occurs on or after January 1, 2014, a member may name the same beneficiary as previously designated, provided that

the resulting benefit to the member and the named beneficiary otherwise meets the requirements of this section.

(b) The election shall be made within 12 months following the death of the beneficiary who predeceased the member or within 12 months of the date of entry of the judgment dividing the community property of the parties, or within 12 months following marriage if the spouse is named as beneficiary. The election shall become effective on the date specified on the election, provided that this date is not earlier than the day following receipt of the election in this system pursuant to this section.

(c) A member who has a qualifying event prior to January 1, 1988, and who fails to elect by January 1, 1989, or a member who has a qualifying event on or after January 1, 1988, and who fails to elect within 12 months, shall retain the right to make an election under this section. However, this election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die prior to the effective date of the election.

(d) This section shall not be construed to mean that designation of a new beneficiary causes the selection of an optional settlement. An optional settlement shall be selected by a member in a writing filed by the member with the board.

(e) This section shall apply to any member who retires on or after January 1, 2018.

21482. (a) Notwithstanding any provision of this part, a retired member who chose no optional settlement or the optional settlement in Section 21474 at retirement may elect to have the actuarial equivalent, as of the date of the election, of the allowance payable for the remainder of his or her lifetime applied to a lesser allowance during his or her remaining lifetime under one of the optional settlements specified in this article and name his or her spouse as beneficiary.

(b) The election provided by this section is irrevocable and shall be made within 12 months following a member's marriage if the spouse is named as beneficiary. The election shall become effective on the date specified on the election, provided that this date is not earlier than the day following receipt of the election in this system pursuant to this section.

(c) A member who married prior to or after January 1, 1988, who fails to elect within 12 months, shall retain the right to make an election under this section. However, the election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die prior to the effective date of the election.

(d) This section shall not be construed to mean that designation of a new beneficiary causes the selection of an optional settlement. An optional settlement shall be selected by a member in a writing filed by the member with the board.

(e) This section shall apply to any member who retires on or after January 1, 2018.

21483. (a) Optional settlement 5 consists of a partial distribution of the actuarial present value of the portion, as specified in this section, of the member's unmodified monthly allowance, as prescribed in Section 21362, 21362.2, 21363, 21363.1, 21363.4, or 21423, when a service retirement allowance is payable. The actuarial present value shall be based upon the investment return and postretirement mortality assumptions adopted by the board for that purpose. The member may elect to receive the actuarial present value of no less than 20 percent and no more than 50 percent of his or her unmodified allowance. The member may elect to receive the remaining portion of the unmodified allowance, not distributed as a lump-sum payment, under one of the settlements specified in this article for the remainder of his or her lifetime and thereafter to his or her designated beneficiary, unless this amount is solely limited to the survivor continuance portion. The portion of the unmodified allowance equivalent to the survivor continuance pursuant to Section 21624 may not be distributed as a lump-sum payment. The benefits provided under this section may not exceed the benefits that would have otherwise been provided under any other section in this article.

(b) This section shall only apply to the following members who retire on or after January 1, 2018:

(1) State peace officer/firefighter members in State Bargaining Unit 6.

(2) State peace officer/firefighter members in State Bargaining Unit 8 and state patrol members in State Bargaining Unit 5, if a memorandum of understanding has been agreed upon by the state and the recognized employee organization to become subject to this section.

(3) State peace officer/firefighter members and state patrol members in supervisory and confidential positions related to the members described in paragraph (1) or (2), if the Department of Human Resources has approved their inclusion.

SEC. 23. Section 21492 of the Government Code is amended to read:

21492. The designation of a beneficiary under the optional settlements in Sections 21456, 21457,~~ 21458,~~ 21459, 21475, 21475.5, 21476, 21476.5, and 21477, *and in Section 21458,* if a benefit involving the life contingency of the beneficiary is provided, is irrevocable from the time of the first payment on account of any retirement allowance. Otherwise a designation of beneficiary under this system is revocable at the pleasure of the member who made it. A member's marriage, dissolution of marriage, annulment of his or her marriage, the birth of his or her child, or his or her adoption of a child shall constitute an automatic revocation of his or her previous revocable designation of beneficiary. A member's termination of employment and withdrawal of contributions shall constitute an automatic revocation of the previous revocable designation of beneficiary. Subsequent reemployment or reinstatement from retirement to employment covered by this system shall not reinstate the previous designation of beneficiary.

Upon revocation of any beneficiary designation, a member may designate the same or another beneficiary by a writing filed with the board, except as otherwise provided in Section 21490.

SEC. 24. Section 21503 of the Government Code is amended to read:

21503. The board may select an optional settlement under Article 6 (commencing with Section 21450) or Article 7 (commencing with Section 21470) of Chapter 13, as applicable, on behalf of the surviving spouse of a member who applied for retirement but who died prior to the mailing of a retirement allowance warrant and prior to an election in accordance with that article if all of the following conditions are met:

(a) The application for retirement was received by this system, prior to the date of death.

(b) The document containing the application for retirement received by this system did not provide for a temporary election of the optional settlement in Sections 21456 and 21459, or in Section 21475.

(c) The deceased member had separated from state service at least one day prior to the effective date of retirement.

(d) The deceased member was alive on the effective date of retirement.

(e) The beneficiary designated on the application for retirement is the surviving spouse who requests in writing that the board make the selection. Upon formal action by the board approving the request, the request shall become irrevocable.

A retirement allowance provided in accordance with this section shall be calculated as if the member had elected Sections 21456 and 21459 if his or her retirement date is on or before December 31, 2017, or Section 21475 if his or her retirement date is on or after January 1, 2018.

SEC. 25. Section 21504 of the Government Code is amended to read:

21504. If a member dies on or after the effective date of retirement and prior to the mailing of a retirement allowance warrant and if the member has elected the optional settlement in Section 21456, 21457, 21459, 21475, 21475.5, 21476, ~~21476.5~~ *21476.5,* or 21477, or an optional settlement in Section 21458, involving payment of an allowance throughout the life of the beneficiary, or the member elected the unmodified allowance or the optional settlement in either Section 21455 or 21474 and if a partially continued retirement allowance under Sections 21624 through 21631, is payable, the death shall be considered to be death after retirement and the applicable benefits shall be payable.

However, if the beneficiary designated on the election for retirement is either (1) the surviving unmarried minor child or children of the member and there is no surviving spouse eligible for a partially continued retirement allowance under Sections 21624 through 21631, or (2) the surviving spouse of the member, the surviving spouse so named or the legal representative of the minor child or children so named may elect to receive benefits that would have been payable had the death occurred under the conditions of Section 21530. Except as provided in Section 21503, nothing in this part permits a surviving spouse, surviving children, or any person other than a member to elect an optional settlement.

SEC. 26. Section 21505 of the Government Code is amended to read:

21505. If a member who has been retired for service because he or she has attained the mandatory age of retirement applicable to members of his or her category dies within 30 days after the date upon which his or her retirement was mandatory, and without having elected the optional settlement in Section 21456, 21457, 21459, 21475, 21475.5, 21476, 21476.5, or 21477, or an optional settlement in Section 21458, involving payment of an allowance throughout the life of a beneficiary, and if no part of the allowance of the member is automatically continued by this part after his or her death, his or her death shall be considered as that of a member before retirement, and the basic death benefit shall be payable, or, if the circumstances are such that a special death benefit would be payable if the death had occurred prior to retirement, the special death benefit shall be payable.

SEC. 27. Section 21530 of the Government Code is amended to read:

21530. (a) This system is liable for either the basic or special death benefit upon the death of a member in any of the following circumstances:

(1) Before the effective date of retirement, and (A) while in state service, or (B) while absent on military service, provided the member has made contributions during the absence under Section 20991 or has had contributions made on his or her behalf under Section 20997, or (C) within four months after discontinuance of state service, or (D) while on an approved leave of absence, or (E) while physically or mentally incapacitated for the performance of duty, if the incapacity has been continuous from discontinuance of state service, or (F) while employed as a member of a county retirement system; provided, the employment resulting in membership was begun on or after October 1, 1957, and within 90 days after discontinuance of state service.

(2) While in state service in partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or Sections 21110 through 21115.

(3) On or after the effective date of retirement and before the mailing of a retirement allowance warrant and either within four months of discontinuance of state service or while physically or mentally incapacitated for the performance of duty if the incapacity

has been continuous from discontinuance of state service, and providing all of the following conditions exist:

(A) The retirement of the member was not compulsory under Article 5 (commencing with Section 21130) of Chapter 12.

(B) The member has not elected the optional settlement in Section 21456, 21457, 21459, 21475, 21475.5, 21476, 21476.5, or 21477, or an optional settlement in Section 21458, involving payment of an allowance throughout the life of a beneficiary.

(C) A partially continued allowance under Sections 21624 through 21631, is not payable.

(b) This system is liable for a limited death benefit, which consists only of the accumulated contributions of the member payable to his or her beneficiary or estate, under the following circumstances:

(1) Upon the death of a member before the effective date of his or her retirement or, with respect to (A) any member whose retirement was not compulsory under Article 5 (commencing with Section 21130) of Chapter 12, and (B) any member who has not elected the optional settlement in Section 21456, 21457, 21459, 21475, 21475.5, 21476, 21476.5, or 21477, or an optional settlement in Section 21458 involving payment of an allowance throughout the life of a beneficiary, on or after that effective date and before the mailing of the first retirement allowance warrant.

(2) Under those circumstances in which this system is not liable for either the basic or special death benefit provided in subdivision (a) of this section, and a partially continued allowance under Sections 21624 through 21631, is not payable.

SEC. 28. Section 21547 of the Government Code is amended to read:

21547. (a) Notwithstanding any other provision of this article requiring attainment of the minimum age for voluntary service retirement to the member in his or her last employment preceding death, upon the death of a state member on or after January 1, 1993, who is credited with 20 years or more of state service, the surviving spouse, or eligible children if there is no surviving spouse, may receive a monthly allowance in lieu of the basic death benefit. The board shall notify the eligible survivor, as defined in Section 21546, of this alternate death benefit. The board shall calculate the monthly allowance that shall be payable as follows:

(1) To the member's surviving spouse, an amount equal to the amount the member would have received if the member had retired for service at minimum retirement age on the date of death and had elected the optional settlement in Section 21456 and Section 21459.

(2) If the member made a specific beneficiary designation under Section 21490, the monthly allowance shall be based only on that portion of the amount the member would have received described in paragraph (1) that would have been derived from the nonmember spouse's community property interest in the member's contributions and service credit.

(3) If there is no surviving spouse or the spouse dies before all of the children of the deceased member attain the age of 18 years, to the surviving children, under the age of 18 years, collectively, an amount equal to one-half of, and derived from the same source as, the unmodified allowance the member would have received if he or she had retired for service at minimum retirement age on the date of death. No child shall receive any allowance after marrying or attaining the age of 18 years. As used in this paragraph, "surviving children" includes a posthumously born child or children of the member.

(b) This section shall only apply to members employed in state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, members who are excluded from the definition of state employees in subdivision (c) of Section 3513, and members employed by the executive branch of government who are not members of the civil service.

(c) For purposes of this section, "state service" means service rendered as a state employee, as defined in Section 19815. This section shall not apply to any contracting agency nor to the employees of any contracting agency.

(d) For purposes of this section, "state service" includes service to the state for which the member, pursuant to Section 20281.5, did not receive credit.

SEC. 29. Section 21547.7 of the Government Code is amended to read:

21547.7. (a) Notwithstanding any other provision of this article requiring attainment of the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, upon the death of a local firefighter member while in the employ of an agency subject to this section on or after January 1, 2001, who is credited with 20 years or more of state service, the surviving spouse, or eligible children, if there is no eligible spouse, may receive a monthly allowance in lieu of the basic death benefit. The board shall notify the eligible survivor, as defined in Section 21546, of this alternate death benefit. The board shall calculate the monthly allowance that shall be payable as follows:

(1) To the member's surviving spouse, an amount equal to the amount the member would have received if he or she had retired for service at the minimum retirement age on the date of death and had elected the optional settlement in Section 21456 and Section 21459. The retirement allowance shall be calculated using all service earned by the member in this system.

(2) If the member made a specific beneficiary designation under Section 21490, the monthly allowance shall be based only on that portion of the amount the member would have received described in paragraph (1) that would have been derived from the nonmember spouse's community property interest in the member's contributions and service credit.

(3) If there is no surviving spouse or the spouse dies before all of the children of the deceased member attain the age of 18 years, to the surviving children, under the age of 18 years, collectively, an amount equal to one-half of, and derived from the same source as, the unmodified allowance the member would have received if he or she had retired for service at the minimum retirement age on the date of death. No child shall receive any allowance after marrying or attaining the age of 18 years. As used in this paragraph, "surviving children" includes a posthumously born child or children of the member. The retirement allowance shall be calculated using all service earned by the member in this system.

(4) The cost of the allowance paid pursuant to this subdivision shall be paid from the assets of the employer at the member's date of death. All member contributions made by the member to this system shall be transferred to the plan assets of the employer liable for the funding of this benefit.

(b) (1) Upon the death of a local firefighter member while in the employ of an agency subject to this section on or after January 1, 2001, who is credited with 20 years or more of state service and who has attained the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, the surviving spouse may elect to receive a monthly allowance that is equal to the amount that member would have received if the member had been retired from service on the date of death and had elected the optional settlement in Section 21456 and Section 21459 in lieu of the basic death benefit. The retirement allowance shall be calculated using all service earned by the member in this system.

(2) If the member made a specific beneficiary designation under Section 21490, the monthly allowance shall be based only on that portion of the amount the member would have received described in paragraph (1) that would have been derived from the nonmember spouse's community property interest in the member's contributions and service credit.

(3) If there is no surviving spouse or the spouse dies before all of the children of the deceased member attain the age of 18 years, the allowance shall continue to the surviving children, under the age of 18 years, collectively, in an amount equal to one-half of, and derived from the same source as, the unmodified allowance the member would have received if he or she had been retired from service on the date of death. No child shall receive any allowance after marrying or attaining the age of 18 years. As used in this paragraph, "surviving children" includes a posthumously born child or children of the member. The retirement allowance will be calculated using all service earned by the member in this system.

(4) The cost of the increase in service allowance paid pursuant to this subdivision shall be paid from the assets of the employer at the member's date of death.

(c) This section shall not apply to any contracting agency, nor to the employees of any contracting agency, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required.

SEC. 30. Section 21548 of the Government Code is amended to read:

21548. (a) The surviving spouse of a member who has attained the minimum age for voluntary service retirement applicable to the member in his or her last employment preceding death, and who is eligible to receive an allowance pursuant to Section 21546, shall instead receive an allowance that is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected the optional settlement *in* Section 21456 and Section 21459.

(b) The surviving spouse of a member who has attained the minimum age for voluntary service retirement applicable to the member in his or her last employment preceding death, and who is eligible to receive a special death benefit in lieu of an allowance under Section 21546, may elect to instead receive an allowance that is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected the optional settlement in Section 21456 and Section 21459.

(c) If the member made a specific beneficiary designation under Section 21490, the allowance under this section shall be based only on that portion of the amount the member would have received described in subdivision (a) or (b) that would have been derived from the nonmember spouse's community property interest in the member's contributions and service credit.

(d) The allowance provided by this section shall be payable as long as the surviving spouse lives. Upon the death of the surviving spouse, the benefit shall be continued to minor children, as defined in Section 6500 of the Family Code, or a lump sum shall be paid as provided under circumstances specified in Section 21546 or in Sections 21541 and 21543, as the case may be.

(e) The allowance provided by this section shall be paid in lieu of the basic death benefit, but the surviving spouse qualifying for the allowance may elect before the first payment on account of it to receive the basic death benefit in lieu of the allowance.

(f) This section shall apply with respect to state members whose death occurs on and after July 1, 1976.

(g) All references in this code to Section 21546 shall be deemed to include this section in the alternative.

(h) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after January 1, 1985, by express provision in the contract making the contracting agency subject to this section.

SEC. 31. Section 21604 of the Government Code is amended to read:

21604. The insurance benefit shall be paid upon death of an insured member of this system to the beneficiary entitled to receive the basic or special death benefit if all of the following conditions occur:

(a) Death occurs during any of the following:

(1) While in state service.

(2) While absent from state service on military service or on approved leave of absence.

(3) Within four months of discontinuance of state service.

(4) While physically or mentally incapacitated for performance of duty continuously from discontinuance of state service.

(b) If either of the following exists:

(1) Death occurs while a member and before the effective date of retirement.

(2) If the optional settlement in Section 21456, 21457, 21459, 21475, 21475.5, 21476, 21476.5, or 21477, or an optional settlement in Section 21458, involving payment of an allowance throughout the life of the beneficiary, has not been elected and if an allowance under Section 21624, 21627, 21629, or 21630 is not payable, and death occurs on or after the effective date of retirement and before the mailing of a retirement allowance warrant.

(c) Death occurs during a period of insurance.

(d) Death occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530.

If this section is in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that, if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 32. Section 21625 of the Government Code is amended to read:

21625. Notwithstanding any other provision of this part, upon the member's election to be subject to Section 21460 or 21478, the benefits provided by Section 21624, 21626, 21627, 21628, 21629, or 21630, as applicable, shall be payable only to the member's eligible surviving spouse and for his or her lifetime. The benefit shall not cease upon the remarriage of the surviving spouse.

SEC. 33. Section 21628 of the Government Code is amended to read:

21628. The allowance provided by Section 21624 shall be paid with respect to a local miscellaneous or local safety member whose retirement was effective prior to his or her employer's election to be subject to the section with respect to employees in his or her employment, if at retirement he or she did not elect the optional settlement in Section 21456, 21457, 21459, 21475, 21475.5, 21476, 21476.5, or 21477 or an optional settlement involving life contingency in Section 21458. The retirement allowance payable to a retired member who elected any of these optional settlements, or to a beneficiary of a retired member, shall be increased by 15 percent, for time on and after the operative date and prior to the next annual adjustment under Article 3 (commencing with Section 21310) of Chapter 13 and the base allowance shall be increased by 15 percent for purpose of that and all subsequent annual adjustments. The amount payable to the beneficiary under the optional settlement shall be increased by the same percentage and in the same manner as the increase provided for the payment to the member.

The increased allowance provided by this section shall not be payable to a beneficiary who is receiving an allowance pursuant to this article or Article 4 (commencing with Section 21350) of Chapter 13 on September 29, 1980, until the employer of the retired member elects to be subject to this section as so amended by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among employees shall not be required. In the case of contracts made on or after September 29, 1980, the operative date of Section 21624, for purposes of application of that section to local members, shall be the effective date of the contract or contract amendment.

SEC. 34. Section 21629 of the Government Code is amended to read:

21629. Upon the death, after the effective date of retirement, of a state miscellaneous member none of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1974, or of a school member or school safety member none of whose service rendered in school service or school safety service has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance derived from employer contributions equal to 50 percent of the amount of his or her retirement allowance as it was at his or her death and based on service credited to him or her as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life. If there is no surviving spouse, or upon the death of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement other than the optional settlement ~~settlement~~ in Section 21455 or 21474 shall apply only to a portion of his or her allowance as provided in Section 21451 or 21471.1. If on the effective date of his or her retirement the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of service retirement subject to this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his or her retirement and ending on the date of his or her death and, for purposes of disability retirement subject to this section where the member retired on or after January 1, 1995, means a husband or wife who was married to the member on the date of his or her retirement and continuously to the date of his or her death.

SEC. 35. Section 21630 of the Government Code is amended to read:

21630. Upon death after the effective date of retirement of a state miscellaneous member some of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1975, or of a school member or school safety member some of whose service rendered in school employment has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance, derived from employer contributions, equal to a percentage of the amount of his or her retirement allowance as it was at his or her death based on service credited to him or her as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life. The percentage shall be 25 percent for an allowance based on service that was also covered under the federal system and 50 percent for an allowance based on any other service, except that the percentage shall be 50 percent for the allowance of a member whose service was subject to Section 21076 or 21077 and who had become a member prior to November 1, 1988. If there is no surviving spouse, or upon the death of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition that disabled that child prior to attaining age 18 and that has continued without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement, other than the optional settlement in Section 21455 or 21474, shall apply only to a portion of the allowance as provided in Section 21451 or 21471.1. If on the effective date of his or her retirement the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of service retirement subject to this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his or her retirement and ending on the date of his or her death and, for purposes of disability retirement subject to this section where the member retired on or after January 1, 1995, means a husband or wife who was married to the member on the date of his or her retirement and continuously to the date of his or her death.

SEC. 36. Section 21631 of the Government Code is amended to read:

21631. (a) The monthly allowance provided by Sections 21629 and 21630 shall be paid on account of retired school members who did not at retirement elect the optional settlement in Section 21456, 21457, 21459, 21475, 21475.5, 21476, 21476.5, or 21477 or an optional settlement involving life contingency in Section 21458.

(b) Upon receipt of a written application for benefits at the office of the board, the benefits provided by this section shall be payable to eligible survivors of retired school members who are not receiving a monthly allowance on account of miscellaneous service as a state member.

(c) When there are no records in the board's possession that contain necessary data for determining the retirement benefit claimed, the applicant or applicants for the benefit shall be required to establish entitlement to the benefit upon evidence satisfactory to the board. That data, at a minimum, shall be sufficient to establish the date of the retired member's death and the amount of the retired member's monthly allowance payable at the time of his or her death. The net benefit payable to the retired school member at the date of death may be determined by the board on the basis of the evidence submitted or upon other evidence if that evidence allows the board to determine the unmodified allowance payable on the date of death. The board shall use available evidence, whether from information provided by the applicant, partial records in possession of the board, or from other sources, as the basis for assumptions that are necessary in order to calculate the allowance payable to the eligible survivor or survivors.

(d) The benefits provided by this section shall be subject to the same eligibility and termination provisions that apply to members at their retirement and shall be paid commencing on the first day of the month succeeding the month in which the application for the benefits of this section is received by the board.

(e) The board has no duty to identify, locate, or notify any survivor of a retired school member who may potentially be eligible for the benefits of this section. The board has no duty to provide the name or address of any potential survivor to any person, agency, or entity for the purpose of notifying survivors who may potentially be eligible for the benefits of this section.

(f) The cost of the additional benefits provided pursuant to the trial court decision in California State Employees Association, et al. v. Board of Administration of the Public Employees' Retirement System et al. (Sacramento County Superior Court, Case No. 332315) shall be paid out of the reserve against deficiencies established by Section 20174.

SEC. 37. Section 21632 of the Government Code is amended to read:

21632. (a) The monthly allowances provided by Sections 21629 and 21630 shall be paid on account of retired state miscellaneous members who did not at retirement elect the optional settlement in Section 21456, 21457, or 21459, or an optional settlement involving life contingency in Section 21458, and whose retirement dates were effective before July 1, 1974, with respect to members who were not covered by the federal system, and before July 1, 1975, with respect to members who were covered under the federal system. Upon receipt of a written application by the board, the benefits provided by this section shall be payable to eligible survivors of retired members who are not receiving a monthly allowance on account of miscellaneous service as a state member. However, if, on the date the application is received by the board, there is no longer in existence a record in the board's possession setting forth the retirement data relating to the retired member, the applicant survivor or survivors of the retired member shall be required, as a condition precedent to his or her entitlement to the benefit provided by this section, to furnish documentary evidence satisfactory to the board to enable it to determine the date of the retired member's death and the amount of the member's allowance that was currently payable at the time of death. The net benefit payable to the retired member at the time of death shall be determined on the basis of the evidence submitted, unless the board is able to determine the unmodified allowance payable at the time of death. If the allowance payable to an eligible survivor is based on evidence furnished by the survivor or partial member records in the board's possession, or both, the board shall use that information to assume any additional factors required to calculate the allowance payable. The benefits shall be subject to the same eligibility and termination provisions that apply to members at retirement and shall, subject to subdivision (b), be paid only for the period of time commencing on the first of the month following receipt by the board of the application for the benefits. The board has no duty to locate or notify any potential survivor or to provide the name or address of any potential survivor to any person, agency, or entity for the purpose of notifying survivors.

(b) Upon receipt of a written application pursuant to subdivision (a), the benefits provided by this section shall be paid both prospectively and retroactively for the period of time commencing with the first day of the month following receipt of the application.

(c) The payment of benefits pursuant to this section, as amended by Chapter 788 of the Statutes of 1984, shall commence no sooner than January 1, 1985.

SEC. 38. Section 21633 of the Government Code is amended to read:

21633. The monthly allowance provided by Section 21624 shall be paid on account of patrol and state safety members retired for nonindustrial disability with effective dates of retirement prior to April 1, 1972, and who did not at retirement elect the optional settlement in Section 21456, 21457, or 21459 or an optional settlement involving life contingency in Section 21458. Upon receipt of a written application by the board, the benefits provided by this section shall also be payable to eligible survivors of retired members who are not receiving a monthly allowance on account of service as a patrol or state safety member if the retired member was alive and receiving a monthly allowance on June 30, 1974. The benefits shall be subject to the same eligibility and termination provisions that apply to members at retirement and shall be paid only for the period of time commencing on the first of the month following receipt by the board of the application for those benefits.

SEC. 39. Section 21752 of the Government Code is amended to read:

21752. (a) (1) In accordance with Section 21756, a member's annual retirement benefits, adjusted to the actuarial equivalent of a straight-life annuity if payable in a form other than a straight-life annuity or a qualified joint and survivor annuity as provided under

Section 21460 or 21478 and determined without regard to any employee contributions or rollover contributions, as defined in Sections 402(a)(5), 403(a)(4), and 408(d)(3) of Title 26 of the United States Code, otherwise payable to the member under Part 3 (commencing with Section 20000) and under any other defined benefit plan maintained by the employer that is subject to Section 415 of Title 26 of the United States Code, shall not exceed, in the aggregate, the dollar limit applicable pursuant to Section 415(b)(1)(A) of Title 26 of the United States Code, as appropriately modified by Section 415(b)(2)(F) and (G) of Title 26 of the United States Code.

(2) A member who receives benefits based on credited service with multiple employers shall not exceed the limitations set forth in this subdivision with regard to his or her annual retirement benefits.

(3) However, the annual retirement benefit payable to a member shall be deemed not to exceed the limitations prescribed in paragraph (1) if the benefit does not exceed ten thousand dollars ($10,000) and the member has at no time participated in a tax qualified defined contribution plan maintained by the employer.

(b) These limitations shall be applied pursuant to Section 415(b)(10) of Title 26 of the United States Code.

(c) Part 3 (commencing with Section 20000) shall be construed as if it included this section.

SEC. 40. Section 75070 of the Government Code is amended to read:

75070. In lieu of electing the unmodified allowance for his or her life alone, a judge 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 75071 when the judge retires on or before December 31, 2017, or Section 75071.5 when the judge retires on or after January 1, 2018.

That election, revocation, or change of election shall be made by a writing filed with the Judges' Retirement System within 30 calendar days after the making of the first payment on account of any retirement allowance.

If a person qualifies for the survivor allowance under Section 75077 or 75096.3, then the election with respect to any optional settlement other than the optional settlement in subdivision (a) of

Section 75071 or subdivision (b) of Section 75071.5, shall apply only to the portion of the retirement allowance that exceeds the amount of the allowance deemed payable to the survivor.

SEC. 41. Section 75070.5 is added to the Government Code, to read:

75070.5. If a judge elects an optional settlement that provides for a monthly allowance for his or her named beneficiary or beneficiaries, the combined allowance payable to the judge's named beneficiary or beneficiaries and the judge's survivor pursuant to Section 75077 or 75096.3, if applicable, shall *not* exceed the amount of the judge's monthly allowance.

SEC. 42. Section 75071 of the Government Code is amended to read:

75071. 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 for life and if he or she dies before receiving the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her designated beneficiary or, if no beneficiary designation is in effect on the date of death, to his or her estate.

(b) (1) Optional settlement two consists of the right to have a retirement allowance paid to him or her for life and thereafter to his or her designated beneficiary for life.

(2) If the judge's designated beneficiary 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 beneficiary 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 beneficiary spouse are legally separated and the judgment dividing their community property awards the total interest in this system to the retired judge, and the retired judge elected this optional settlement to be effective on or after January 1, 2002, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(c) (1) Optional settlement three consists of the right to have a retirement allowance paid him or her for life, and thereafter to have one-half of his or her retirement allowance paid to his or her designated beneficiary for life.

(2) If the judge's designated beneficiary 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 beneficiary 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 beneficiary 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 Judges' Retirement System.

(e) When a judge elects, on or after January 1, 2003, to receive benefits provided by paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c), and the judge and his or her optional settlement beneficiary both die before receiving in annuity payments the full amount of the judge's accumulated contributions at retirement, the balance of the judge's accumulated contributions shall be paid to the beneficiary designated by the judge. If the judge had no designated beneficiary in effect on the date of death, payment shall be made to the judge's estate.

SEC. 43. Section 75071.5 is added to the Government Code, to read:

75071.5. This section shall apply to any judge who retires on or after January 1, 2018.

(a) The unmodified allowance consists of the right to have the maximum retirement allowance paid to the judge for his or her life alone. There is no continuing allowance to a beneficiary and there is no 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 until his or her death 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 designated beneficiary or 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 designated beneficiary for life; provided that with respect to a judge subject to Section 75077 or 75096.3 at retirement, the beneficiary shall receive a monthly allowance equal to that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable to the judge's survivor.

(2) Upon the death of both the judge and the designated beneficiary, any remaining balance of the judge's accumulated contributions at retirement not used to fund the allowances paid to the judge and the designated beneficiary will be paid in a lump sum to the secondary beneficiary or beneficiaries designated by the judge.

(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 designated beneficiary for life; provided that with respect to a judge subject to Section 75077 or 75096.3 at retirement, the beneficiary shall receive a monthly allowance equal to that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable to the judge's survivor.

(2) If the judge's designated beneficiary 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 beneficiary 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 beneficiary 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 designated beneficiary for life, provided that, with respect to a judge subject to Section 75077 or 75096.3 at retirement, the beneficiary shall receive a monthly allowance equal to one-half of that portion of the judge's allowance that exceeds the amount of the allowance deemed payable to the judge's survivor.

(2) Upon the death of both the judge and the designated beneficiary, any remaining balance of the judge's accumulated contributions at retirement not used to fund the allowances paid to the judge and the designated beneficiary will be paid in a lump sum to the secondary beneficiary or beneficiaries designated by the judge.

(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 designated beneficiary for life; provided that with respect to a judge subject to Section 75077 or 75096.3 at retirement, the beneficiary shall receive a monthly allowance equal to one-half of that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable to the judge's survivor.

(2) If the judge's designated beneficiary 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 beneficiary 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 beneficiary 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.

(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 designated beneficiary or beneficiaries for life. Subject to Section 75070.5, the judge may select the monthly allowance payable to the designated beneficiary or beneficiaries from the options below:

(1) Specific Dollar Amount to a Beneficiary or Beneficiaries. 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 a designated beneficiary or beneficiaries for life.

(2) Specific Percentage to a Beneficiary or Beneficiaries. 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 ~~unmodified~~ allowance be paid to a designated beneficiary or beneficiaries for life.

SEC. 44. Section 75073 of the Government Code is amended to read:

75073. A judge who elects to receive optional settlement two or three in Section 75071 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 75071, 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.

SEC. 45. Section 75094 of the Government Code is amended to read:

75094. (a) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge shall receive an allowance that is equal to the amount that the judge would have received had the judge been retired from service on the date of his or her death and had elected the optional settlement specified in subdivision (b) of Section 75071 and 75073, if all of the following apply to the judge:

(1) The judge died in office on or after January 1, 2005.

(2) The judge 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.

(3) The judge was eligible to receive an allowance pursuant to Section 75025 or 75033.5.

(b) A surviving spouse receiving an allowance pursuant to this section 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 Law.

(c) The benefits provided by this section are only payable to the surviving spouse of a judge who elects to come within this section. Notwithstanding Section 75090, that election may be made at any time while the judge is in office and, once made, the election is irrevocable.

(d) This section does not prevent a surviving spouse from claiming or receiving any payments to which he or she may be entitled as a beneficiary under the Extended Service Incentive Program set forth in Article 4.5 (commencing with Section 75085).

SEC. 46. Section 75522 of the Government Code is amended to read:

75522. (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 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).

SEC. 47. Section 75570 of the Government Code is amended to read:

75570. (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.

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

SEC. 48. Section 75570.5 is added to the Government Code, to read:

75570.5. 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 ~~member's~~ *judge's* monthly allowance.

SEC. 49. Section 75571 of the Government Code is amended to read:

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

(a) Optional settlement 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.

(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.

SEC. 50. Section 75571.5 is added to the Government Code, to read:

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

(a) The unmodified allowance consists of the right to have the maximum retirement allowance paid to the judge for 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.

(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, 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.

SEC. 51. Section 75573 of the Government Code is amended to read:

75573. 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.

SEC. 52. Section 75590 of the Government Code is amended to read:

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

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

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

(b) A surviving spouse of a 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.

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