

AMENDED IN SENATE MAY 13, 1999

AMENDED IN SENATE APRIL 6, 1999

SENATE BILL

No. 976

Introduced by Senator Perata

February 26, 1999

An act to amend ~~Sections 75080 and~~ *Section* 75590 of, and to add Section 75094 to, the Government Code, relating to retired judges.

LEGISLATIVE COUNSEL'S DIGEST

SB 976, as amended, Perata. Retired judges: ~~employment survivor's benefits.~~

~~Under the Judges' Retirement Law, if a judge, following retirement for disability, engages in the practice of law or other gainful occupation, other than a public office, prior to the age of 70, his or her retirement allowance is decreased by the amount that his or her monthly compensation earned in the occupation, when combined with the retirement allowance, exceeds 75% of his or her final judicial salary.~~

~~This bill would provide that a judge's retirement allowance, following disability retirement, shall not be subject to any reduction if the judge engages in the practice of law or any other gainful occupation, except as specified.~~

Under the Judges' Retirement Law and the Judges' Retirement System II Law, specified benefits are provided to the surviving spouse of a judge who dies in office at a time when the judge was eligible for service retirement.

This bill would provide alternative benefits for those surviving spouses that would be payable if specified conditions exist at the time of the judge's death and the judge, at any time while in office, made an irrevocable election to be subject to the bill's provisions.

Under the Judges' Retirement System II Law, certain benefits are provided to the surviving spouse of a retired judge who retired for service and elected to receive a specified allowance.

This bill would also provide those benefits to the surviving spouse of a retired judge who retired for disability and was receiving a monthly allowance, as specified.

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

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

1 ~~SECTION 1. Section 75080 of the Government Code~~
 2 ~~is amended to read:~~
 3 ~~75080. (a) If, after retirement for disability, a retired~~
 4 ~~judge engages in the practice of law or other gainful~~
 5 ~~occupation, the retirement allowance otherwise payable~~
 6 ~~to him or her shall continue and shall not be reduced,~~
 7 ~~except as provided in this section.~~
 8 ~~(b) Except as provided in subdivision (c), if a judge~~
 9 ~~who is retired for disability engages in the practice of law~~
 10 ~~or other gainful occupation that requires the discharge of~~
 11 ~~duties substantially similar to those duties that he or she~~
 12 ~~was found, pursuant to Section 75060, to be unable to~~
 13 ~~discharge efficiently because of his or her mental or~~
 14 ~~physical disability, the retirement allowance otherwise~~
 15 ~~payable to him or her shall cease permanently.~~
 16 ~~(c) If a retired judge becomes entitled to any salary for~~
 17 ~~assignment to a court by the Chairperson of the Judicial~~
 18 ~~Council after retirement under Section 75060, the~~
 19 ~~retirement allowance otherwise payable to him or her~~
 20 ~~shall, during the time he or she is entitled to receive that~~
 21 ~~salary or other compensation, be reduced by the amount~~
 22 ~~of that salary or compensation.~~



1 ~~(d) Persons affected by this section shall report all~~
 2 ~~compensation earned in a form and manner required by~~
 3 ~~the Board of Administration of the Public Employees'~~
 4 ~~Retirement System under penalty of perjury. The board~~
 5 ~~shall have the authority to require these persons to grant~~
 6 ~~the board permission to request wage information for the~~
 7 ~~purposes of verifying the reported compensation earned.~~
 8 ~~The Employment Development Department shall~~
 9 ~~report compensation in a form and manner required by~~
 10 ~~the board in accordance with Section 1798.24 of the Civil~~
 11 ~~Code. The board shall reimburse the Employment~~
 12 ~~Development Department for the costs that the~~
 13 ~~department incurs in searching for and providing that~~
 14 ~~information.~~

15 ~~(e) When a person described in subdivision (b)~~
 16 ~~reaches the age at which he or she would have been~~
 17 ~~eligible for retirement for service, pursuant to Section~~
 18 ~~75025, had he or she not become disabled, his or her~~
 19 ~~retirement allowance shall be made equal to the amount~~
 20 ~~it would be if not reduced under that subdivision, and~~
 21 ~~shall not again be modified for any cause.~~

22 ~~(f) A judge who is retired for disability or becomes~~
 23 ~~entitled to any salary for assignment to a court by the~~
 24 ~~Chairperson of the Judicial Council after retirement~~
 25 ~~under Section 75060 shall not be eligible to receive service~~
 26 ~~credit in another public retirement system or under this~~
 27 ~~chapter or to be reinstated to this system.~~

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

31 ~~SEC. 2.~~

32 *SECTION 1.* Section 75094 is added to the
 33 Government Code, to read:

34 75094. (a) Notwithstanding any other provision of
 35 this article to the contrary, the surviving spouse of a judge
 36 who (1) died in office, (2) had attained the minimum age
 37 for service retirement applicable to the judge preceding
 38 his or her death, with a minimum of 20 years of service,
 39 and (3) was eligible to receive an allowance pursuant to
 40 Section 75025 or 75033.5, shall receive an allowance that



1 is equal to the amount that the judge would have received
2 if the judge had been retired from service on the date of
3 death and had elected optional settlement 2 specified in
4 subdivision (b) of Section 75071.

5 (b) A surviving spouse receiving an allowance
6 pursuant to this section shall have no other claim to
7 benefits with respect to the Judges' Retirement Fund or
8 with respect to any other provision of the Judges'
9 Retirement Law.

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

15 ~~SEC. 3.~~

16 *SEC. 2.* Section 75590 of the Government Code is
17 amended to read:

18 75590. (a) A surviving spouse of a judge who was
19 eligible to retire pursuant to subdivision (a) of Section
20 75522 shall, within 90 days after the judge's death, elect to
21 receive either of the following:

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

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

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



1 (c) (1) Notwithstanding any other provision of this
2 article to the contrary, the surviving spouse of a judge
3 who (A) died in office, (B) had attained the minimum
4 age for service retirement applicable to the judge
5 preceding his or her death, with a minimum of 20 years
6 of service, and (C) was eligible to receive an allowance
7 pursuant to Section 75522, shall receive an allowance that
8 is equal to the amount that the judge would have received
9 if the judge had been retired from service on the date of
10 death and had elected optional settlement 2 specified in
11 subdivision (b) of Section 75071.

12 ~~(1)~~

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

18 ~~(2)~~

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

