2023 Edition

Retirement Law Book

SACRS™
STATE ASSOCIATION of COUNTY RETIREMENT SYSTEMS

CERL
County Employees Retirement Law of 1937

PEPRA
California Public Employees' Pension Reform Act of 2013

Other Government Code Sections Applicable to CERL Systems

2023 EDITION
RETIREMENT LAW BOOK

The 2023 edition of the Retirement Law Book contains the following:

- State of California County Classification (Government Code Section 28020)
- Constitution of the State of California Article XVI Public Finance Section 17
- County Employees Retirement Law of 1937 (CERL)
- California Public Employees' Pension Reform Act of 2013 (PEPRA)
- Other Government Code Sections Applicable to CERL Systems

For your convenience, each section includes a list of legislative updates, a table of contents, and an index.

This law book has been prepared by the Los Angeles County Employees Retirement Association (LACERA) for the State Association of County Retirement Systems (SACRS). Although every effort has been made to ensure that this law book is produced without error, LACERA makes no claims as to the accuracy or completeness of the information presented herein. This publication was not prepared by persons licensed in California to practice law. It is not a substitute for the official publications of the laws presented herein or the advice of an attorney.

Some provisions of the 1937 Act do not apply in every county; consult your county's retirement system for applicable provisions.

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The 2023 edition of the Retirement Law Book is available at lacera.com.

STATE OF CALIFORNIA
COUNTY CLASSIFICATION

The counties of the State of California are classified according to their population (Government Code Section 28020).

County members of the State Association of County Retirement Systems have the following classes:

CLASS	COUNTY
1st	Los Angeles
2nd	Orange
3rd	San Diego
4th	Alameda
7th	San Bernardino
8th	Sacramento
9th	Contra Costa
10th	San Mateo
12th	Fresno
13th	Ventura
14th	Kern
15th	San Joaquin
16th	Santa Barbara
18th	Marin
19th	Sonoma
20th	Stanislaus
21st	Tulare
25th	Merced
32nd	Imperial
34th	Mendocino

CONSTITUTION
OF THE STATE OF CALIFORNIA
ARTICLE XVI PUBLIC FINANCE
Section 17

SEC. 17. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the State and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when the stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and the holding of the stock shall entitle the holder thereof to all of the rights, powers and privileges, and shall subject the holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which the stock is so held.

Notwithstanding any other provisions of law or this Constitution to the contrary, the retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:

(a) The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

(b) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty.

(c) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(d) The members of the retirement board of a public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

(e) The retirement board of a public pension or retirement system, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system.

(f) With regard to the retirement board of a public pension or retirement system

which includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board which were required by law or otherwise in effect on July 1, 1991, shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.

(g) The Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board pursuant to this section.

(h) As used in this section, the term "retirement board" shall mean the board of administration, board of trustees, board of directors, or other governing body or board of a public employees' pension or retirement system; provided, however, that the term "retirement board" shall not be interpreted to mean or include a governing body or board created after July 1, 1991 which does not administer pension or retirement benefits, or the elected legislative body of a jurisdiction which employs participants in a public employees' pension or retirement system.

(Sec. 17 amended Nov. 3, 1992, by Prop. 162. Initiative measure.)

Insert CERL Tab Here

2023 EDITION
COUNTY EMPLOYEES RETIREMENT LAW OF 1937

GOVERNMENT CODE
Title 3, Division 4, Part 3, Chapter 3 and 3.9
Excerpts from Sections 31450-31899.10

The 2023 edition of the County Employees Retirement Law of 1937 (CERL) is excerpted from sections 31450 - 31899.10. It contains all additions and amendments made by the legislature in 2022. Additions and amendments are identified by a vertical line along the outside margin on affected pages.

2023 Edition

County Employees Retirement Law Legislative Updates

Legislation enacted in 2022 added or amended the following sections of the County Employees Retirement Law of 1937. These actions became effective January 1, 2023.

Article/Sections	Added/Amended	Bill	Effective Date	Page
Article 1	**General**			
31452.7	Amended	AB 1824	1/1/2023	3
Article 7	**Service**			
31641.4	Amended	AB 1824	1/1/2023	167
31646	Amended	AB 1971	1/1/2023	174
31646.2	Added	AB 1971	1/1/2023	176
Article 7.5	**Service**			
31663.25	Amended	AB 1824	1/1/2023	189
31663.26	Amended	AB 1824	1/1/2023	190
Article 8	**Retirement for Service**			
31680.16	Added	AB 1971	1/1/2023	233
Article 10	**Disability Retirement**			
31725.7	Amended	AB 1971	1/1/2023	267
31726	Amended	AB 1824	1/1/2023	270
31726.5	Amended	AB 1824	1/1/2023	270
Article 11	**Optional Retirement Allowance**			
31760	Amended	AB 1971	1/1/2023	286
31761	Amended	AB 1824	1/1/2023	292
31762	Amended	AB 1824	1/1/2023	292
31763	Amended	AB 1824	1/1/2023	292
31764	Amended	AB 1824	1/1/2023	292
Article 12	**Death Benefit**			
31781	Amended	AB 1824	1/1/2023	308

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2023 Edition
COUNTY EMPLOYEES RETIREMENT LAW OF 1937

Article 1. General

§31450. Short title

This chapter may be cited as the County Employees Retirement Law of 1937.
(Added by Stats. 1947, Ch. 424, Sec. 1)

§31451. Purpose

The purpose of this chapter is to recognize a public obligation to county and district employees who become incapacitated by age or long service in public employment and its accompanying physical disabilities by making provision for retirement compensation and death benefit as additional elements of compensation for future services and to provide a means by which public employees who become incapacitated may be replaced by more capable employees to the betterment of the public service without prejudice and without inflicting a hardship upon the employees removed.
(Added by Stats. 1947, Ch. 424, Sec. 1)

§31452. Retirement allowances exempt from taxation and other process

The right of a person to a pension, annuity, retirement allowance, return of contributions, the pension, annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under this chapter, the money in the fund created or continued under this chapter or the California Public Employees' Pension Reform Act of 2013, and any property purchased for investment purposes pursuant to this chapter, are exempt from taxation, including any inheritance tax, whether state, county, municipal, or district. They are not subject to execution or any other process of court whatsoever except to the extent permitted by Section 31603 of this code and Section 704.110 of the Code of Civil Procedure, and are unassignable except as specifically provided in this chapter.
(Amended by Stats. 1982, Ch. 497, Sec. 117; Operative July 1, 1983, by Ch. 497, Sec. 185)
(Amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 1)
(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 1)

§31452.5. Deduction from retirement allowance for insurance, etc.; fee

(a) The board may comply with and give effect to a revocable written authorization signed by a retired member or beneficiary of a retired member entitled to a retirement allowance or benefit under this chapter or the California Public Employees' Pension Reform Act of 2013, authorizing the treasurer or other entity authorized by the board to deduct a specified amount from the retirement allowance or benefit payable to any retired member or beneficiary of a retired member for any of the following purposes:

(1) Paying premiums on any policy or certificate of group life insurance or group disability insurance issued by an admitted insurer.

(2) Paying premiums for a prepaid group medical or hospital service plan.

(3) Paying premiums for a vision care program or dental plan, approved by the board, for the benefit of the retired member or his or her dependents.

(4) Paying premiums on national service life insurance or United States government converted insurance.

(5) Payment for the purchase of shares in or the payment of money to any regularly chartered credit union.

(6) Payment to a charitable organization or a federally chartered veterans' organization that is approved by the board.

(7) Payments to a recognized retiree organization.

(8) Payment for the purchase of United States savings bonds.

(9) The payment of personal income taxes to the government of the United States or the State of California.

(10) Payment for any retiree benefit programs available through the recognized retiree organization. The board may require that this payment be to a single party designated by the recognized retiree organization, either to itself or to a third-party administrator.

(b) Each month the order shall be drawn in favor of the insurer, institution, credit union, organization, or government named in the written authorization for an amount equal to the deductions authorized in subdivision (a) and made during the month.

(c) The board may charge a reasonable fee for the making of the deductions and payments.

(Amended by Stats. 1989, Ch. 121, Sec. 1)
(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 1)
(Amended by Stats. 2007, Ch. 331 (AB 1288), Sec. 1)
(Amended by Stats. 2012, Ch. 178 (SB 1382), Sec. 1)
(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 2)

§31452.6. Delivery of benefits to financial institutions; refunds after death

(a) The board shall comply with and give effect to a revocable written authorization signed by a retired member or beneficiary of a retired member entitled to a retirement allowance or benefit under this chapter or the California Public Employees' Pension Reform Act of 2013, authorizing the treasurer or other entity authorized by the board to deliver the monthly warrant, check, or electronic fund transfer, for the retirement allowance or benefit to any specified bank, savings and loan institution, or credit union to be credited to the account of the retired member or survivor of a deceased retired member. That delivery is full discharge of the liability of the board to pay a monthly retirement allowance or benefit to the retired member or survivor of a deceased retired member.

(b) Any payments directly deposited by electronic fund transfer following the date of death of a person who was entitled to receive a retirement allowance or benefit under this chapter or the California Public Employees' Pension Reform Act of 2013 shall be refunded to the retirement system.

(c) In order to obtain information from a financial institution following the death of a retired member or the beneficiary of a retired member, as provided in subdivision (o) of Section 7480, the board may certify in writing to the financial institution that the retired member or the beneficiary of a retired member has died and that transfers to the account of the retired member or beneficiary of a retired member at the financial institution from the retirement system occurred after the date of death of the retired member or the beneficiary of a retired member.

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 2)
(Amended by Stats. 2004, Ch. 506 (AB 3094), Sec. 4)
(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 3)

§31452.65. Issuance of duplicate for lost or destroyed warrant

Upon receipt of proof, satisfactory to the board, that a warrant or check drawn in payment of a retirement allowance or in payment of any other account due from the retirement system has been lost or destroyed, the treasurer or other entity authorized by the board upon request of the board of retirement shall as provided by Section 31590 issue a duplicate warrant or check bearing the same date as the original in payment of the same amount, without requiring a bond from the payee, and the treasurer or other entity authorized by the board shall

pay the duplicate in lieu of the original warrant or check and any losses incurred by reason of the issuance of duplicate warrants or checks shall be a charge against the account from which the payment is derived.

This section shall not be operative in any county until the time as the board of supervisors shall, by resolution, make this section applicable in the county.

(Added by Stats. 1974, Ch. 471, Sec. 2)

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 3)

§31452.7. Member's or survivor's death; payment of allowance

(a) Upon the death of any member after retirement, any retirement allowance earned but not yet paid to the member shall, notwithstanding any other provision of law, be paid to the member's designated beneficiary.

(b) Upon the death of any person receiving a survivor's allowance under this chapter, any allowance earned but not yet paid to the survivor shall, notwithstanding any other provision of law, be paid to the survivor's designated beneficiary.

(c) For purposes of this section, "beneficiary" includes, but is not limited to, a corporation, a trust, or an estate.

(Added by Stats. 2000, Ch. 497 (SB 2008), Sec. 1)

(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 8)

§31453. Actuarial valuation; recommendation as to changes of rates of interest; contributions and appropriations; exception

(a) An actuarial valuation shall be made within one year after the date on which any system established under this chapter becomes effective, and thereafter at intervals not to exceed three years. The valuation shall be conducted under the supervision of an actuary and shall cover the mortality, service, and compensation experience of the members and beneficiaries, and shall evaluate the assets and liabilities of the retirement fund. Upon the basis of the investigation, valuation, and recommendation of the actuary, the board shall, at least 45 days prior to the beginning of the succeeding fiscal year, recommend to the board of supervisors the changes in the rates of interest, in the rates of contributions of members, and in county and district appropriations as are necessary. With respect to the rates of interest to be credited to members and to the county or district, the board may, in its sound discretion, recommend a rate which is higher or lower than the interest assumption rate established by the actuarial survey. No adjustment shall be included in the new rates for time prior to the effective date of the revision.

(b)(1) Upon the basis of the investigation, valuation, and recommendation of the actuary, the board shall, at least 45 days prior to the beginning of the succeeding fiscal year, recommend to the governing body of a district within the county system that is not governed by the board of supervisors the changes in the rates of contributions of district members and in district appropriations as are necessary.

(2) This subdivision shall not be operative in any county until the board of supervisors, by resolution adopted by majority vote, makes the provisions applicable in that county.

(Amended (as amended by Stats. 1984, Ch. 591, Sec. 1) by Stats. 1984, Ch. 1738, Sec. 2, Effective September 30, 1984)

(Amended by Stats. 2005, Ch. 63 (AB 538), Sec. 1)

§31453.5. Normal contribution rate; computation

Notwithstanding Section 31587, and in accordance with Section 31453 or 31510.1, the board may determine county or district contributions on the basis of a normal contribution rate which shall be computed as a level percentage of compensation which, when applied to

the future compensation of the average new member entering the system, together with the required member contributions, will be sufficient to provide for the payment of all prospective benefits of such member. The portion of liability not provided by the normal contribution rate shall be amortized over a period not to exceed 30 years.

(Amended by Stats. 1983, Ch. 886, Sec. 2)

§31453.6. Funding period to amortize unfunded accrued actuarial obligations; new amortization periods; requests

Notwithstanding any other provision of this chapter, the board of retirement may, at the request of the board of supervisors, adopt a funding period of 30 years to amortize unfunded accrued actuarial obligations, as determined by their actuary or by an actuary employed by the board of investments, for benefits applicable to all membership categories for the purpose of determining employer contribution rates for counties and districts. The board of retirement shall approve a new amortization period based upon a request from the board of supervisors that demonstrates a financial necessity. The board of retirement may deny a request when the request would subject the fund to an unsound financial risk. A board of retirement may take an action pursuant to this section only once.

(Added by Stats. 1992, Ch. 707, Sec. 3, Effective September 15, 1992)

§31454. Adjustment by board or governing body of rates of interest, contributions, and appropriations

(a) The board of supervisors shall, not later than 90 days after the beginning of the immediately succeeding fiscal year, adjust the rates of interest, the rates of contributions of members, and county and district appropriations in accordance with the recommendations of the board, but shall not fix them in amounts that reduce the individual benefits provided in this chapter or the California Public Employees' Pension Reform Act of 2013.

(b) (1) The governing body of a district within the county system that is not governed by the board of supervisors shall, not later than 90 days after the beginning of the immediately succeeding fiscal year, adjust the rates of contributions of district members and in district appropriations in accordance with the recommendations of the board, but shall not fix them in amounts that reduce the individual benefits provided in this chapter or the California Public Employees' Pension Reform Act of 2013.

(2) This subdivision shall not be operative in any county until the board of supervisors, by resolution adopted by majority vote, makes the provision applicable in that county.

(Amended by Stats. 1978, Ch. 271, Sec. 1)

(Amended by Stats. 2005, Ch. 63 (AB 538), Sec. 2)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 4)

§31454.1. Independent assumptions and calculations contained in actuarial valuation; meet and confer provisions; legislative intent

(a) The independent assumptions and calculations of an actuary contained in the actuarial valuation required by Section 31453 shall not be subject to the "meet and confer" provisions of the Meyers-Milias-Brown Act; however, it is recognized that those provisions require that the board or the board of supervisors meet and confer with representatives of recognized employee organizations prior to determining a course of action with respect to the recommendations contained in the actuarial valuation.

(b)(1) The independent assumptions and calculations of an actuary contained in the actuarial valuation required by Section 31453 shall not be subject to the "meet and confer" provisions of the Meyers-Milias-Brown Act; however, it is recognized that those provisions

require that the governing body of a district within the county system that is not governed by the board of supervisors meet and confer with representatives of recognized employee organizations prior to determining a course of action with respect to the recommendations contained in the actuarial valuation.

(2) This subdivision shall not be operative in any county until the board of supervisors, by resolution adopted by majority vote, makes the provisions applicable in that county.

(c) The intent of the Legislature, in enacting this section, is to insure the solvency and actuarial soundness of the retirement systems governed by this chapter by preserving the independent nature of the actuarial evaluation process.

(Added by Stats. 1980, Ch. 720, Sec. 3)

(Amended by Stats. 2005, Ch. 63 (AB 538), Sec. 3)

§31454.5. Additional appropriations by board to fund deficits

In any county subject to the provisions of Section 31676.1, 31676.11, 31676.12, or 31695.1 the board of supervisors may, by vote entered in the minutes of the board, make an additional appropriation sufficient to fund over a period of 30 years any deficit which may result to the system because of the adoption of Section 31676.1, 31676.11, 31676.12, or 31695.1 or by the adoption of Articles 6.8, 7.5 and 8.7. The board of supervisors may make such additional appropriation whether recommended by the board or not.

(Amended by Stats. 1973, Ch. 55, Sec. 1, Effective May 23, 1973)

§31454.6. Additional appropriations by governing body of district to fund deficits

Whenever, in any county subject to the provisions of Section 31676.1, the board of supervisors makes any additional appropriations pursuant to Section 31454.5, the governing body of every district, including the board of supervisors where it is the governing body, also shall make an additional appropriation in the amount to which it has agreed, otherwise in the same proportion as the total pay roll deductions from the salaries of all members employed by such district for the latest pay roll period bear to the total pay roll deductions from the salaries of all members employed by the county for the same pay roll period.

(Added by Stats. 1957, Ch. 1387, Sec. 1)

§31454.7. Board's plenary authority to recommend adjustments to county and district contributions

The Legislature affirms the ruling of Mijares v. Orange County Employees' Retirement System (2019) 32 Cal.App.5th 316, with respect to a board's plenary authority to recommend adjustments to county and district contributions as necessary to ensure the appropriate funding of the system, and with respect to the mandate of Section 31454 that the county and districts adjust the rates of contributions of members and appropriations in accordance with the board's recommendations. Under all circumstances, the county and districts shall each remain liable to the retirement system for their respective share of any unfunded actuarial liability of the system, as determined by the board.

(Added by Stats. 2020, Ch. 275 (AB 2101), Sec. 29)

§31455. Controlling definitions and general provisions

Unless the context otherwise requires, or unless superseded by any provision of the California Public Employees' Pension Reform Act of 2013, the definitions and general provisions contained in this article govern the construction of this chapter.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 5)

§31455.5. Fraud against county retirement systems

(a) It is unlawful for a person to do any of the following:

(1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit accrued or accruing to a person under this chapter.

(2) Present, or cause to be presented, any knowingly false material statement or material representation for the purpose of supporting or opposing an application for any benefit accrued or accruing to a person under this chapter.

(3) Knowingly accept or obtain payment from a retirement system with knowledge that the recipient is not entitled to the payment under the provisions of this chapter and with the intent to retain the payment for personal use or benefit.

(4) Knowingly aid, abet, solicit, or conspire with any person to do an act prohibited by this section.

(b) For purposes of this section, "statement" includes, but is not limited to, any oral or written application for benefits, report of family relationship, report of injury or physical or mental limitation, hospital records, test results, physician reports, or other medical records, employment records, duty statements, reports of compensation, or any other evidence material to the determination of a person's initial or continued eligibility for a benefit or the amount of a benefit accrued or accruing to a person under this chapter.

(c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine.

(d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to the retirement system, or to any other person determined by the court, for the amount of the benefit unlawfully obtained, unless the court finds that restitution, or a portion of it, is not in the interests of justice. Any restitution order imposed pursuant to this section shall be satisfied before any criminal fine imposed under this section may be collected.

(e) The provisions provided by this section are cumulative and shall not be construed as restricting the application of any other law.

(Added by Stats. 2008, Ch. 369 (AB 1844), Sec. 5)

§31456. "Actuarial equivalent" defined

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality tables adopted by the board of supervisors and regular interest thereon.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31457. "Annuity" defined

"Annuity" means payment for life derived from contributions made by a member.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31458. "Beneficiary" defined

"Beneficiary" means any person in receipt of a pension, annuity, retirement allowance, death benefit, or any other benefit.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31458.2. Death of member prior to designation of beneficiary; surviving spouse as beneficiary; procedure

If, after December 31, 1957, and either before or after retirement a member dies leaving

a spouse and has not designated a beneficiary, and, prior to the payment of any portion of the death benefit, such spouse files with the board written evidence, satisfactory to the board, that she or he is the surviving spouse and the date of the marriage, such surviving spouse shall be deemed, for the purposes of this chapter, to have been nominated as the beneficiary by such member.

(Amended by Stats. 1965, Ch. 513, Sec. 2)

§31458.3. Payment to member's ex-spouse pursuant to court order; designation of beneficiary; termination upon death of member (Los Angeles)

(a) A member's ex-spouse who is receiving or is entitled to receive payments from the system, including a portion of the surviving spouse's allowance, pursuant to an order of the court dividing the community property interest in the member's retirement allowance may designate one or more beneficiaries who shall receive those payments following the death of the ex-spouse. If there is no designated beneficiary, payment shall be made to the estate of the ex-spouse. Those payments shall terminate upon the death of the member or the surviving spouse.

(b) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1993, Ch. 396 (AB 1659), Sec. 2)

(Amended by Stats. 1996, Ch. 493 (SB 792), Sec. 1)

(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 1)

§31458.4. Member's ex-spouse; payments pursuant to court order; designation of beneficiary; termination; operation of section

(a) A member's ex-spouse who is receiving or is entitled to receive payments from the system, including a portion of the surviving spouse's allowance, pursuant to an order of the court dividing the community property interest in the member's retirement allowance may designate one or more beneficiaries who shall receive those payments following the death of the ex-spouse. If there is no designated beneficiary, payment shall be made to the estate of the ex-spouse. Those payments shall terminate upon the death of the member or the surviving spouse.

(b) This section shall not be operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

(Added by Stats. 1996, Ch. 493 (SB 792), Sec. 2)

(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 2)

§31458.6. Note: (Added by Stats. 1996, Ch. 493 (SB 792), Sec. 3) was editorially reclassified as Government Code Sec. 31485.6.

(Amended and renumbered by Stats. 1998, Ch. 132 (SB 2137), Sec. 1 as Sec. 31485.8)

§31459. "Board" defined

(a) In a county in which a board of investments has been established pursuant to Section 31520.2:

(1) As used in Sections 31453, 31453.5, 31454, 31454.1, 31454.5, 31472, 31588.1, 31589.1, 31591, 31592.3, 31594, 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31611, 31616, 31625, 31784, and 31872, "board" means a board of investments.

(2) As used in the first paragraph of Section 31592.2, "board" means a board of investments.

(3) Sections 31510.4, 31522, 31523, 31524, 31525, 31528, 31529, 31529.5, 31595, 31618,

31680, and 31680.1 apply to both the board of retirement and board of investments, and "board" means both "board of retirement" and "board of investments."

(b) In Article 17 (commencing with Section 31880), "board" means the Board of Administration of the Public Employees' Retirement System.

(c) In all other cases, "board" means the board of retirement.

(Amended by Stats. 1984, Ch. 1738, Sec. 3, Effective September 30, 1984)

(Amended by Stats. 2007, Ch. 315 (AB 246), Sec. 1)

(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 3)

§31459.1. Board (Los Angeles)

(a) In a county in which a board of investments has been established pursuant to Section 31520.2:

(1) As used in Sections 31453, 31453.5, 31454, 31454.1, 31454.5, 31472, 31588.1, 31589.1, 31591, 31592.3, 31594, 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31610, 31611, 31612, 31613, 31616, 31618, 31621.11, 31625, 31639.26, 31784, and 31872, "board" means board of investments.

(2) As used in the first paragraph of Section 31592.2 and the first paragraph and subdivision (c) of the second paragraph of Section 31595, "board" means a board of investments.

(3) Sections 31521, 31522, 31522.1, 31522.2, 31523, 31524, 31525, 31528, 31529, 31529.5, 31535.1, 31580.2, 31614, 31680, and 31680.1, apply to both the board of retirement and board of investments, and "board" means either or both the board of retirement and board of investments.

(4) Subdivision (a) of Section 31526 and subdivisions (a) and (b) of the second paragraph of Section 31595 apply to both the board of retirement and board of investments, and "board" means either or both the board of retirement and board of investments.

(b) In Article 17 (commencing with Section 31880) of this chapter, "board" means the Board of Administration of the Public Employees' Retirement System.

(c) In all other cases, "board" means the board of retirement.

(d) This section shall apply only in a county of the first class, as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Amended by Stats. 2011, Ch. 48 (SB 637), Sec. 1)

§31460. "Compensation" defined

"Compensation" means the remuneration paid in cash out of county or district funds, plus any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, but does not include the monetary value of board, lodging, fuel, laundry, or other advantages furnished to a member.

(Amended by Stats. 1972, Ch. 1370, Sec. 10)

§31461. "Compensation earnable" defined

(a) "Compensation earnable" by a member means the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay. The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence. Compensation, as defined in Section 31460, that has been deferred shall be deemed "compensation earnable" when earned, rather than when paid.

(b) "Compensation earnable" does not include, in any case, the following:

(1) Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:

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

(B) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.

(C) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

(2) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

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

(4) Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

(c) The terms of subdivision (b) are intended to be consistent with and not in conflict with the holdings in Salus v. San Diego County Employees Retirement Association (2004) 117 Cal.App.4th 734 and In re Retirement Cases (2003)110 Cal.App.4th 426.

(Amended by Stats. 1993, Ch. 396, Sec. 3)

(Amended by Stats. 1995, Ch. 558 (SB 226), Sec. 1)

(Amended by Stats. 2012, Ch. 297 (AB 197), Sec. 2)

§31461.1. Counties of the first class; compensation; compensation earnable; operative effect; construction of section (Los Angeles)

(a) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(b) Notwithstanding Sections 31460 and 31461, neither "compensation" nor "compensation earnable" shall include any of the following: cafeteria or flexible benefit plan contributions, transportation allowances, car allowances, or security allowances, as enumerated in a resolution adopted pursuant to subdivision (c).

(c) Except as provided in subdivision (d), this section shall not be operative until the board of supervisors, by resolution adopted by a majority vote, makes this section operative with respect to any employee who becomes a member after the effective date of the resolution.

(d) Regardless of whether it has acted pursuant to subdivision (c), at any time the board of supervisors, by separate resolution adopted by a majority vote, may make this section operative with respect to any member not represented by a certified employee organization who makes an irrevocable election to become subject to this section.

(e) Nothing in this section shall be construed to affect any determination made by the board of retirement, pursuant to Section 31461, prior to the effective date of this section.

(f) Nothing in this section shall be construed to affect the validity of any memorandum of understanding or similar agreement that has been executed prior to the effective date of this section.

(Amended by Stats. 1993, Ch. 396, Sec. 4)

(Amended by Stats. 1994, Ch. 1100 (SB 2003), Sec. 1)
(Amended by Stats. 2006, Ch. 538 (SB 1852), Sec. 303)

§31461.2. "Compensation earnable" defined

"Compensation earnable" by a public administrator, coroner or coroner-public administrator member compensated by means of fees means the average compensation as determined by the board, for the period under consideration, upon the basis of the average amount of fees received each month by such member.

(Added by Stats. 1961, Ch. 2095, Sec. 1)

§31461.3. Members of state or county retirement system; average compensation

(a) The average compensation during any period of service as a member of the Public Employees' Retirement System, a member of a retirement system established under this chapter in another county, a member of the State Teachers' Retirement System, or a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2 shall be considered compensation earnable by a member for purposes of computing final compensation for that member provided:

(1) The period intervening between active memberships in the respective systems does not exceed 90 days, or six months if Section 31840.4 applies.

(2) He or she retires concurrently under both systems and is credited with that period of service under the other system at the time of retirement.

(b) This section shall be applied retroactively under this chapter in favor of any member whose membership in the Public Employees' Retirement System or in a retirement system established under this chapter in any county terminated prior to October 1, 1957, provided that he or she was eligible to and elected deferred retirement therein within 90 days after eligibility for reciprocity, the period intervening between active memberships in the respective systems did not exceed 90 days, or six months if Section 31840.4 applies, and he or she retires concurrently under both systems and is credited with that period of service under the other system at the time of retirement. The limitation of the 90-day or six-month period between the active membership in the two retirement systems shall not apply to an employee who entered the employment in which he or she became a member of the State Employees' Retirement System prior to July 18, 1961; provided he or she entered that employment within 90 days, or six months if Section 31840.4 applies, after the termination of employment in the county system, whether that employment is with the state or with a county, a city, or other public agency that contracts with the Public Employees' Retirement System, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2.

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 2)
(Amended by Stats. 2001, Ch. 159 (SB 662), Sec. 116)

§31461.4. Counties of the first class; cafeteria or flexible benefit plan contributions; compensation and compensation earnable (Los Angeles)

(a) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(b) Notwithstanding Sections 31460 and 31461, neither "compensation" nor "compensation earnable" shall include any increase, made on or after January 1, 1996, in cafeteria or flexible benefit plan contributions for any member represented by a certified employee organization, nor shall they include any increase in cafeteria or flexible benefit plan

contributions made on or after January 1, 1995, for any member not represented by a certified employee organization, provided that the nonrepresented member waives the applicability of Sections 31460 and 31461 in writing prior to receiving any cash payment based on the increase.

(c) This section shall not be operative in the county until the time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions of this section applicable in the county.

(Added by Stats. 1999, Ch. 7 (AB 288), Sec. 1, Effective March 24, 1999)

§31461.45. Counties of the first class; compensation earnable; operative effect (Los Angeles)

(a) This section applies only to a county of the first class, as defined by Section 28020.

(b) "Compensation earnable" in a county of the first class shall include only those items of remuneration specifically included as a result of the court approved settlement in (1) the consolidated cases of Los Angeles County Professional Peace Officers' Association, et al. v. Board of Retirement, Los Angeles County Employees' Retirement Association (Los Angeles County Superior Court Case No. BS 051355) and Milton Cohen v. Board of Retirement, Los Angeles County Employees' Retirement Association (Los Angeles County Superior Court Case No. BS 051774), (2) the case of Los Angeles County Fire Department Association of Chiefs, et al. v. Board of Retirement, Los Angeles County Employees' Retirement Association; County of Los Angeles (Los Angeles County Superior Court Case No. BS 057432), and (3) the case of Cecil Bugh v. Board of Retirement, Los Angeles County Employees' Retirement System (Los Angeles County Superior Court Case No. BS 055611), all of which were included in Coordination Proceeding Special Title (Rule 1550(b)), Retirement Cases, Judicial Council Coordination Proceeding No. 4049, even if a final judicial determination in that coordinated case, or any subsequent case, should conclude that any additional item of remuneration must be included in that definition with respect to any other county. Those items of remuneration in addition to base salary and the pensionable portion, if any, of cafeteria plan contributions, are set forth in Resolution No. 01-001, adopted by the Board of Retirement on or before the effective date of this section and shall include only the following:

Earnings Code No.	Title
099	Patrol Station Retention Bonus
358	Temporary Promotion Bonus
359	Lifeguard Paramedic, Catalina
503	Uniform Allowance
504	Night Shift Differential
505	Coroner's Inquest Reporter
507	Co-Generation or Hydro-Electric Ops and Mtce
508	Henninger Flats Watchman
509	Freezer Work
510	Department Head Merit
511	Board of Supervisors Performance Lump Sum
512	Fire Suppression Transportation Truck Driver
514	Backhoe Operator
516	Explosives Work
517	Evening Shift Differential
518	Power Equipment Repair, Snow Conditions
519	Engineering Employees, Hazard Pay
520	Home Care Compensation
522	Custodian Acting As Watchman
523	DPD Deputy Director Recruitment Incentive
525	Contracting and Productivity Improvement Incentive for Managers
528	WEBCOM Press Operator

Earnings Code No.	Title
529	Power Equipment Operator, Fire Suppression
530	RN Extra Weekends Worked
531	Standby
532	Additional Responsibilities or Exceptional Performance
533	Power Sweeper Operator in Emergency Conditions
534	Power Plant Relief Engineer
535	Clinic Physician, First Hour and One-Half
536	Consulting Specialist, MD, & Mental Health Consultant, MD, First and Fifth Hours
538	RN Assigned as Acting or Relief Charge Nurse
539	RN Weekend Differential
540	Relief Nurse Holiday Differential (Hourly Item)
541	Relief Nurse Weekend Differential (Hourly Item)
544	Appraisers Laundry and Dry Cleaning Allowance
545	Heavy Duty Tow Truck Driver
546	Slurry Seal Truck Driver
547	Lifeguard Paramedic - Shift
548	Lifeguard Paramedic - Hourly
550	Incentive Awards For Medi-Cal Reimbursements, Health Services
551	Group Incentive Award, Treasurer Tax Collector
553	Pioneer Excavation, Tunnel Operations, Fire Suppression and Snow Removal - Construction Inspection and Surveying Groups
554	Pioneer Excavation, Tunnel Operations, Fire Suppression and Snow Removal
555	Scaffold or Swing Stage, 30 Feet Above Grade
556	High Scale and Rigging Operations, General
557	Evening Shift, Med Tech
558	Night Shift, Med Tech
565	Paramedic Recertification Bonus
567	Deputy Sheriff Reserve Annual Compensation
570	Home Care Program Standby
571	CSW Licensure Supervision
572	MOU Lump Sum Bonus
601	Lifeguard Paramedic, Relief
602	Supervising Transportation Deputy Performing Dispatcher Duties
603	Automotive Service Excellence Certificates
604	RN Mobile Intensive Care Certification
605	Custodian Floor Waxing Bonus
606	Fire Equipment Mechanic Assigned Field Repair Duties
607	SDPO Assigned Acting Director In A Camp
608	Bilingual Bonus
609	RN Assigned to Emergency Room
610	Antelope Valley Firefighting Crew
611	Tree Trimmer Supervisor, Power Operations
612	Shooting Bonus, Expert
613	Shooting Bonus, Distinguished Expert
614	Shooting Bonus, Marksman
615	Shooting Bonus, Sharpshooter
616	Antelope Valley Quarters, On Fire Call
617	Clinic Nurse Assigned to Probation Camp

Earnings Code No.	Title
618	Transportation Bus Driver, Sheriff
619	Lifeguard Paramedic
620	San Gabriel Dam Operator
621	Nurse Retention Incentive
622	Advanced Appraiser Certification
623	Probation Transcriber Typist Production Incentive
624	Bilingual Additional Bonus Children's Social Workers
625	Agriculture Inspectors Assigned to Standardization
626	Firefighter Paramedic not Assigned to a Paramedic Post
628	Bilingual Bonus for Other Than Monthly Employees
629	Mortuary Attendant at LAC/USC MC
630	Safety Police Educational/Longevity Incentive
632	Mental Health Workers Assigned to Sheriff's Detention Facilities
634	Supervising Detention Services Officer of the Day
635	Transportation Deputy Bus Driver, Probation
636	Sheriff's Station Commander Expenses
637	Professional Development Expenses
638	Probation Telecom Equipment Bonus
639	Intern Housing Allowance LAC/USC Med. Center
640	Children's Services ERCP Retention
641	Shooting Bonus, Expert - Reserve
642	Shooting Bonus, Distinguished Expert - Reserve
643	Shooting Bonus, Marksman - Reserve
644	Shooting Bonus, Sharpshooter - Reserve
645	Welder Certification Bonus
782	FLSA Premium Pay for Regularly Scheduled Work Assignment
903	Non-Elective Leave Buyback
910	Sick Buyback
911	Vacation Buyback
912	Holiday Buyback
913	Sick Pre-71 Buyback
914	Sick Buyback-Probation 56 Hour
915	Vacation Buyback-56 Hour
930	Special Paid Leave Buyback
931	Appraisers Leave Buyback
932	Intern/Resident Leave Buyback
None	Emp Suggest
None	Park, Nontaxable
None	Park, Taxable
None	Prior Salary
None	Transportation Allow
None	Traffic Mitigation

Any such additional item of remuneration may subsequently be included in "compensation earnable" pursuant to a memorandum of understanding between a county of the first class and any of its recognized employee organizations or a resolution adopted by its board of supervisors.

(c) No item of remuneration included in "compensation earnable" as a result of the court-approved settlement and as set forth in the resolution described above in subdivision (b)

may be removed therefrom as a result of any subsequent judicial determination, except that a county of the first class and a recognized employee organization may agree only through a memorandum of understanding to exclude the item of remuneration from "compensation earnable" or the Board of Supervisors may adopt a resolution excluding the item of remuneration from "compensation earnable" with respect to nonrepresented employees.

(d) This section shall not be operative in the county until the board of supervisors, by resolution adopted by a majority vote, makes the provisions of this section applicable in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 1, Effective October 13, 2001, as an urgency statute)

§31461.5. Executive and Unclassified Management Operational Incentive Plan; exclusion from retirement benefits

Notwithstanding any other provision of law, salary bonuses or any other compensation incentive payments for regular duties or for additional services outside regular duties received under the program known on April 1, 1997, as the Executive and Unclassified Management Operational Incentive Plan or any successor program that is substantially similar by any members who are in positions identified as executive or unclassified management shall be excluded from all retirement benefit calculations.

(Added by Stats. 1998, Ch. 129 (SB 1789), Sec. 1)

§31461.6. "Compensation earnable" defined

(a) "Compensation earnable" shall not include overtime premium pay other than premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 and following of Title 29 of the United States Code.

(b) This section shall not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013.

(Added by Stats. 2000, Ch. 966 (AB 2331), Sec. 3)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 6)

§31462. "Final Compensation" defined

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

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

(Amended by Stats. 1969, Ch. 416, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 7)

§31462.05. Determination of "final compensation"

(a) For a member who is subject to the California Public Employees' Pension Reform Act of 2013 for all or any portion of his or her membership in the county retirement system, "final compensation" as defined in Section 7522.32 shall apply.

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

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

(Added by Stats. 2013, Ch. 247 (AB 1380), Sec. 8)

(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 1)

§31462.1. "Final compensation" based on compensation for one year; adoption by counties

(a) (1) "Final compensation" means the average annual compensation earnable by a member during any year elected by a member at or before the time he or she files an application for retirement, or, if he or she fails to elect, during the year immediately preceding his or her retirement.

(2) This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions of this section applicable in such county.

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

(Added by Stats. 1970, Ch. 316, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 9)

§31462.2. "Final compensation" defined as used in relation to intermittent members

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

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

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

(Added by Stats. 1955, Ch. 1756, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 10)

(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 2)

§31462.3. Members participating in designated plans who are employed by County of Los Angeles on or after October 1, 2000; final compensation; application and operative effect (Los Angeles)

(a) For members participating in the designated plans who are employed by the County of Los Angeles on or after October 1, 2000, and who retire or die on or after July 1, 2001, "final compensation" means the average annual compensation earnable by a member during any year elected by the member at or before the time he or she files an application for retirement or, if the member fails to elect, during the year immediately preceding his or her retirement.

(b) As used in this section, the "designated plans" means the retirement plans sponsored by the County of Los Angeles that are commonly known as Retirement Plans B, C, and D for general members and Retirement Plan B for safety members.

(c) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a

majority vote, to make this section operative.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 1.5, Effective October 13, 2001, as an urgency statute)

§31462.11. Recalculation of allowances based on compensation for one year; prospective application; resolution by board

In any county subject to the provisions of Section 31462.1, every retirement allowance, optional death allowances, or annual death allowance, payable to or on account of any member, granted prior to the effective date of Section 31462.1 in such county, shall be recalculated as though Section 31462.1 had been in force in such county on the effective date of such allowance.

Any increased allowances resulting from such recalculation shall be payable only prospectively on and after the operative date of this section in that county.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1974, Ch. 249, Sec. 1)

§31463. "Normal contributions" defined

"Normal contributions" means contributions by a member at the normal rates of contributions, but does not include additional contributions by a member.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31464. "Accumulated normal contributions" defined

"Accumulated normal contributions" means the sum of all normal contributions standing to the credit of a member's individual account and regular interest thereon.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31465. "Additional contributions" defined

"Additional contributions" means contributions made by members in addition to normal contributions under Section 31627.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 30)

§31466. "Accumulated additional contributions" defined

"Accumulated additional contributions" means the sum of all additional contributions standing to the credit of a member's individual account and regular interest thereon.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31467. "Accumulated contributions" defined

"Accumulated contributions" means accumulated normal contributions plus any accumulated additional contributions standing to the credit of a member's account.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31468. "District" defined

(a) "District" means a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

(b) "District" also includes any institution operated by two or more counties, in one of which there has been adopted an ordinance placing this chapter in operation.

(c) "District" also includes any organization or association authorized by Chapter 26 of the Statutes of 1935, as amended by Chapter 30 of the Statutes of 1941, or by Section 50024, which organization or association is maintained and supported entirely from funds derived

from counties, and the board of any retirement system is authorized to receive the officers and employees of that organization or association into the retirement system managed by the board.

(d) "District" also includes, but is not limited to, any sanitary district formed under Part 1 (commencing with Section 6400) of Division 6 of the Health and Safety Code.

(e) "District" also includes any city, public authority, public agency, and any other political subdivision or public corporation formed or created under the constitution or laws of this state and located or having jurisdiction wholly or partially within the county.

(f) "District" also includes any nonprofit corporation or association conducting an agricultural fair for the county pursuant to a contract between the corporation or association and the board of supervisors under the authority of Section 25905.

(g) "District" also includes the Regents of the University of California, but with respect only to employees who were employees of a county in a county hospital, who became university employees pursuant to an agreement for transfer to the regents of a county hospital or of the obligation to provide professional medical services at a county hospital, and who under that agreement had the right and did elect to continue membership in the county's retirement system established under this chapter.

(h) "District" also includes the South Coast Air Quality Management District, a new public agency created on February 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400) of Part 3 of Division 26 of the Health and Safety Code.

(1) Employees of the South Coast Air Quality Management District shall be deemed to be employees of a new public agency occupying new positions on February 1, 1977. On that date, those new positions are deemed not to have been covered by any retirement system.

(2) No retirement system coverage may be effected for an employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, unless and until the employee shall have elected whether to become a member of the retirement association established in accordance with this chapter for employees of Los Angeles County or the retirement association established in accordance with this chapter for employees of San Bernardino County. The election shall occur before January 1, 1980. Any employee who fails to make the election provided for herein shall be deemed to have elected to become a member of the retirement association established in accordance with this chapter for the County of Los Angeles.

(3) The South Coast Air Quality Management District shall make application to the retirement associations established in accordance with this chapter for employees of Los Angeles County and San Bernardino County for coverage of employees of the South Coast Air Quality Management District.

(4) An employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, and who has not terminated employment before January 1, 1980, shall be covered by the retirement association elected by the employee pursuant to paragraph (2). That coverage shall be effected no later than the first day of the first month following the date of the election provided for in paragraph (2).

(5) Each electing employee shall receive credit for all service with the South Coast Air Quality Management District. However, the elected retirement association may require, as a prerequisite to granting that credit, the payment of an appropriate sum of money or the transfer of funds from another retirement association in an amount determined by an enrolled actuary and approved by the elected retirement association's board. The amount to be paid shall include all administrative and actuarial costs of making that determination. The amount to be paid shall be shared by the South Coast Air Quality Management District and the employee. The share to be paid by the employee shall be determined by good faith bargaining between the district and the recognized employee organization, but in no event shall the employee be required to contribute more than 25 percent of the total amount required to be paid. The elected retirement association's board may not grant that credit for that prior service

unless the request for that credit is made to, and the required payment deposited with, the elected retirement association's board no earlier than January 1, 1980, and no later than June 30, 1980. The foregoing shall have no effect on any employee's rights to reciprocal benefits under Article 15 (commencing with Section 31830).

(6) An employee of the South Coast Air Quality Management District who commenced employment with the district after December 31, 1978, shall be covered by the retirement association established in accordance with this chapter for employees of San Bernardino County. That coverage shall be effected as of the first day of the first month following the employee's commencement date.

(7) Notwithstanding paragraphs (2) and (4) above, employees of the South Coast Air Quality Management District who were employed between February 1, 1977, and December 31, 1978, and who terminate their employment between February 1, 1977, and January 1, 1980, shall be deemed to be members of the retirement association established in accordance with this chapter for the employees of Los Angeles County commencing on the date of their employment with the South Coast Air Quality Management District.

(i) "District" also includes any nonprofit corporation that operates one or more museums within a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, pursuant to a contract between the corporation and the board of supervisors of the county, and that has entered into an agreement with the board and the county setting forth the terms and conditions of the corporation's inclusion in the county's retirement system.

(j) "District" also includes any economic development association funded in whole or in part by a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, and that has entered into an agreement with the board of supervisors and the county setting forth the terms and conditions of the association's inclusion in the county's retirement system.

(k) "District" also includes any special commission established in the Counties of Tulare and San Joaquin as described by Section 14087.31 of the Welfare and Institutions Code, pursuant to a contract between the special commission and the county setting forth the terms and conditions of the special commission's inclusion in the county's retirement system with the approval of the board of supervisors and the board of retirement.

(l)(1) "District" also includes the retirement system established under this chapter in Orange County.

(2) "District" also includes the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(3) "District" also includes the retirement system established under this chapter in Contra Costa County.

(4) "District" also includes the retirement system established under this chapter in Ventura County.

(m) "District" also includes the Kern County Hospital Authority, a public agency that is a local unit of government established pursuant to Chapter 5.5 (commencing with Section 101852) of Part 4 of Division 101 of the Health and Safety Code.

(Amended by Stats. 1994, Ch. 652, Sec. 1)

(Amended by Stats. 2002, Ch. 74 (AB 1992), Sec. 1; Effective June 27, 2002, as an urgency statute)

(Amended by Stats. 2006, Ch. 369 (SB 777), Sec. 1)

(Amended by Stats. 2014, Ch. 244 (SB 673), Sec. 1)

(Amended by Stats. 2014, Ch. 613 (AB 2546), Sec. 1.5)

(Amended by Stats. 2015, Ch. 223 (AB 1291), Sec. 1)

§31469. "Employee" defined

(a) "Employee" means any officer or other person employed by a county whose

compensation is fixed by the board of supervisors or by statute and whose compensation is paid by the county, and any officer or other person employed by any district within the county.

(b) "Employee" includes any officer or attache of any superior court that has been brought within the operation of this chapter.

(c) "Employee" includes any officer or other person employed by a district as defined in subdivision (c) of Section 31468 and whose compensation is paid from funds of the district.

(d) "Employee" includes any member paid from the county school service fund who elected pursuant to Section 1313 of the Education Code to remain a member of this system.

(e) "Employee" includes any person permanently employed by a local agency formation commission including the executive officer thereof.

(Amended by Stats. 1968, Ch. 1261, Sec. 2)

(Amended by Stats. 1998, Ch. 931 (SB 2139), Sec. 213, Effective September 28, 1998)

(Amended by Stats. 2006, Ch. 538 (SB 1852), Sec. 304)

§31469.1. County peace officer defined

(a) "County peace officer" means the sheriff and any officer or employee of the sheriff's office of a county employed and qualifying as a constable or deputy constable or marshal or deputy marshal or deputy sheriff or equal or higher rank, irrespective of the duties to which that person may be assigned, excepting, however, those employees whose principal duties are those of a telephone operator, clerk, stenographer, machinist or mechanic.

(b) Any other provision in the Government Code to the contrary notwithstanding, "county peace officer" shall also include and mean any inspectors, detectives and investigators employed by the district attorney, whose principal duties are to investigate crime and criminal cases and to receive regular compensation for that service.

(c) "County peace officer" does not include a local prosecutor, local public defender, or local public defender investigator, as defined in Section 31469.2.

(Added by Stats. 1951, Ch. 1197, Sec. 1)

(Amended by Stats. 2002, Ch. 1152 (AB 2023), Sec. 8)

§31469.2. "Local prosecutor," "local public defender," "local public defender investigator," defined

(a) For purposes of this chapter, "local prosecutor" means any one of the following:

(1) A county officer or employee who meets all of the following criteria:

(A) He or she is or, on or after January 1, 2002, was employed in the office of the district attorney.

(B) His or her job classification is or, on or after January 1, 2002, was district attorney, deputy district attorney, chief deputy district attorney, senior deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or title.

(C) His or her effective date of retirement is on or after the date Section 31470.14 becomes applicable in the county.

(2) A county officer or employee who meets all of the following criteria:

(A) He or she was employed in the office of a district attorney prior to the date the local child support agency transitioned from the district attorney to a new county department, as specified in Section 17304 of the Family Code.

(B) His or her job classification was district attorney, deputy district attorney, chief deputy district attorney, senior deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or

title.

(C) He or she is or, on or after January 1, 2002, was an attorney in a local child support agency, as defined in subdivision (h) of Section 17000 of the Family Code, with no break in service between employment by a district attorney and the local child support agency.

(D) His or her effective date of retirement is on or after the date Section 31470.14 becomes applicable in the county.

(3) A city officer or employee who meets all of the following criteria:

(A) He or she is or, on or after January 1, 2002, was employed in the office of the city attorney.

(B) He or she is or, on or after January 1, 2002, was primarily engaged in the active enforcement of criminal laws within any court operating in a county.

(C) His or her job classification is or, on or after January 1, 2002, was city attorney, deputy city attorney, chief deputy city attorney, assistant city attorney, chief assistant city attorney, or any other similar classification or title.

(D) His or her effective date or retirement is on or after the date Section 31470.14 becomes applicable in the county.

(b) For purposes of this chapter, "local public defender" means a city or county officer or employee who meets all of the following criteria:

(1) He or she is or, on or after January 1, 2002, was employed in the office of the public defender, the alternate public defender, or any similar office title.

(2) His or her job classification is or, on January 1, 2002, was public defender, deputy public defender, chief deputy public defender, senior deputy public defender, assistant public defender, chief assistant public defender, senior assistant public defender, or any other similar classification or title.

(3) His or her effective date of retirement is on or after the date Section 31470.14 becomes applicable in the county.

(c) For purposes of this chapter, "local public defender investigator" means a city or county officer or employee who meets all of the following criteria:

(1) He or she is or, on or after January 1, 2002, was employed in the office of the public defender, the alternate public defender, or any other similar office title.

(2) His or her job classification is or, on or after January 1, 2002, was inspector, investigator, detective, or any other similar classification or title.

(3) His or her principal duties are or, on or after January 1, 2002, were to investigate crime and criminal statutes.

(4) His or her effective date of retirement is on or after the date Section 31470.14 becomes applicable in the county.

(Added by Stats. 2002, Ch. 1152 (AB 2023), Sec. 9)

§31469.3. "Safety member" defined

Safety member means any person who is any of the following:

(a) A member of a pension system established pursuant to either Chapter 4 or Chapter 5, who elects by written notice filed with the board, to become a safety member.

(b) Any person employed by a county, subject to Section 31676.1 or 31695.1 or by a district or court organized or existing within such a county, whose principal duties consist of active law enforcement or active fire suppression as described in Section 31470.2 and 31470.4, or active lifeguard service as limited by Section 31470.6 or juvenile hall group counseling and group supervision if adopted by the board of supervisors as provided in Section 31469.4.

(c) Any person described in Section 31469.2 in any county in which Section 31470.14 has become operative.

(Added by Stats. 1951, Ch. 1098, Sec. 4)
(Amended by Stats. 1970, Ch. 396, Sec. 1)
(Amended by Stats. 2002, Ch. 1152 (AB 2023), Sec. 10)

§31469.4. Juvenile hall group counselors and group supervisors as safety members

"Safety member" means persons employed as probation officers, juvenile hall or juvenile home group counselors, and group supervisors who are primarily engaged in the control and custody of delinquent youths who must be detained under physical security in order not to be harmful to themselves or others.

The provisions of this section shall not be applicable in any county until the board of supervisors by resolution make the provisions applicable.

(Amended by Stats. 1981, Ch. 1142, Sec. 4)

§31469.5. Counties of 10th class; optional safety status for probation officers; application (San Mateo)

(a) This section shall be applicable in the retirement system of any county of the 10th class, as defined by Sections 28020 and 28031, as amended by Chapter 1204 of the Statutes of 1971, if the board of supervisors executes a memorandum of understanding with the employee representatives and adopts, by majority vote, a resolution providing for safety status for probation officers, as provided in Section 31469.4.

(b) The purpose of this section is to provide optional safety status for probation officers employed on or before March 1, 1991. Notwithstanding Section 31558.6, that option shall be exercised within 120 days from the effective date of the implementation of Section 31469.4, together with the option to receive credit as a safety member for all or part of the time during which his or her duties would have made him or her eligible to become a safety member, if this section had then been in effect.

(c) Except as otherwise provided in this section, the retirement benefits of existing probation officers who elect to transfer from general membership in the county retirement system to safety membership shall be implemented pursuant to Section 31484.5, except that:

(1) The definition of final compensation in Section 31462.1 shall no longer apply to probation officers electing safety status; instead, the definition of final compensation in Section 31462 shall apply at the date of retirement to all credited safety service regardless of previous service under Section 31462.1. However, the board of supervisors may adopt a resolution providing that the definition of final compensation contained in Section 31462.1 shall apply to certain probation officers electing safety status who are specifically identified in the resolution and who are retiring on or after the date specified in the resolution.

(2) For employees entitled to a cost-of-living adjustment upon retirement, Article 16.5 (commencing with Section 31870) shall apply, except that the increase in the allowance shall not exceed a maximum amount of 3 percent in any given year credited as safety membership. An employee who elects safety retirement under Section 31469.4 and who thereby waives his or her entitlement to a higher cost-of-living allowance shall be deemed to have waived the higher cost-of-living allowance with regard to all previous service credited as safety service at the date of retirement, regardless of previous service under any other provision and shall be deemed to have relinquished any right to the higher cost-of-living allowance without refund of contributions therefore, except as determined by the board of supervisors.

(3) An employee who elects safety retirement under Section 31469.4 may elect to receive credit as a safety member for all or part of the time during which his or her duties would have made him or her eligible to become a safety member if this section had then been in effect as provided in Section 31639.7, except that an election to receive part credit may be exercised only in multiples of five years of service. A member who elects to receive credit for

only a part of that county service shall elect that county service latest in time and may not receive credit for any portion of county service prior in time to any county service for which he or she does not elect to receive credit.

(4) A member not previously within the safety membership category who elects to receive credit for all or part of the time during which the member's duties would have made him or her eligible to become a safety member if this section had then been in effect shall pay into the retirement system the amount that would have had to be contributed by the employer to fund the employer's liability for safety membership and an amount equal to the difference between the employee's contributions actually made during the time for which he or she claims credit and the contributions the member would have made during that period if he or she had been in safety status during that period.

(d) All probation officers in Tier III who elect to transfer from general membership in the county retirement system to safety membership pursuant to this section shall be placed in Tier II regardless of their status prior to selecting Tier III benefits.

(e) All persons hired after the effective date of implementation of Section 31469.4 shall, upon retirement, have his or her cost-of-living allowance and final compensation computed in accordance with this section.

(Added by Stats. 1991, Ch. 344, Sec. 1, Effective August 6, 1991, Applicable as of March 1, 1991, pursuant to Sec. 3 of Ch. 344)

(Amended by Stats. 1999, Ch. 116 (AB 947), Sec. 1)

(Amended by Stats. 2000, Ch. 135 (AB 2539), Sec. 78)

§31469.6. Law enforcement employees of harbor improvement district as safety members

Law enforcement employees of a harbor improvement district are safety members subject to Article 6.8 (commencing with Section 31639) and Article 7.5 (commencing with Section 31662) of this chapter, and to such other provisions of this chapter as apply to safety members.

(Added by Stats. 1963, Ch. 731, Sec. 1)

§31469.8. County of 18th class; agreement to extend safety status to specified employees; conditions (Marin)

(a) In a county of the 18th class, as defined by Sections 28020 and 28039, as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may meet and confer pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1) with a recognized employee organization that represents county employees who are not safety members because the board of supervisors has not made Section 31469.4 applicable in the county, and endeavor to reach agreement on any conditions to be required of employees or an employee organization seeking to have Section 31469.4 made applicable. The conditions shall include, but not be limited to, whether the employees shall be required to pay all or part of the following:

(1) The increase in the employer's normal cost contributions.

(2) Any increase of the employer's unfunded actuarial accrued liability in excess of what it would have accrued if the employees had remained miscellaneous members.

(3) Any increase in the employer's normal cost contributions or unfunded actuarial liability attributable to employees who have become safety members electing to purchase credit as a safety member pursuant to Section 31639.7 for the time served in an eligible position prior to becoming a safety member.

(b) Any payments made by employees on behalf of the employer to cover the increased cost of safety retirement shall be as determined upon actuarial advice from the retirement board's actuaries, and shall be approved by the board of retirement.

(c) This section shall not be operative in the county until the date on which the board of supervisors, by resolution adopted by a majority vote, makes the provisions of this section applicable in the county.

(Added by Stats. 2000, Ch. 172 (SB 1640), Sec. 1)

§31470. "Member" defined

"Member" means any person included in the membership of the retirement association pursuant to Article 4, and includes safety members as defined in Sections 31469.3, 31470.2, 31470.4 and 31470.6, or any person who has elected in writing to come within the provisions of Article 9.

(Amended by Stats. 1957, Ch. 1301, Sec. 2)

§31470.1. "Member" as including "county peace officer member," application of special provisions

"Member" includes "county peace officer member" except in sections where county peace officer members are specifically excluded. Anything else in this act to the contrary notwithstanding, where there is a conflict with the special provisions pertaining to county peace officer members said special provisions shall apply.

(Added by Stats. 1951, Ch. 1197, Sec. 2)

§31470.2. Persons eligible

(a) All sheriffs, undersheriffs, chief deputies sheriff, jailers, turnkeys, deputies sheriff, bailiffs, constables, deputies constable, motorcycle officers, aircraft pilots, heads and assistant heads of all divisions of the office of the sheriff, detectives and investigators in the office of the district attorney, marshals, court service officers only in a county of the third class, as defined in Sections 28020 and 28024, and all regularly appointed deputy marshals are eligible.

(b) In a county of the eighth class, as defined in Sections 28020 and 28029, both as amended by Chapter 1204 of the Statutes of 1971, all peace officers in the Park Ranger class series in the Department of Regional Parks, Recreation, and Open Space are eligible. This subdivision shall not be operative until such time as the county board of supervisors shall, by resolution adopted by a majority vote, make this subdivision applicable in the county.

(c) Local prosecutors, local public defenders, and local public defender investigators are eligible if the county board of supervisors adopts a resolution by a majority vote making this subdivision and Section 31470.14 applicable in the county.

(Amended by Stats. 2000, Ch. 482 (AB 439), Sec. 2)

(Amended by Stats. 2002, Ch. 1152 (AB 2023), Sec. 11)

§31470.3. Persons ineligible

Clerks, bookkeepers, stenographers, court service officers, except in a county of the third class, as defined in Sections 28020 and 28024, and other employees who may have been appointed as deputies sheriff or deputies marshal but who do not perform the duties of any peace officers enumerated and honorary deputies sheriff or other persons holding appointments as deputies sheriff who receive no compensation therefor who do not regularly perform official duties and those whose principal duties clearly do not fall within the scope of active law enforcement, even though such a person is subject to occasional call, or is occasionally called upon to perform duties within the scope of active law enforcement are ineligible.

(Amended by Stats. 1982, Ch. 1582, Sec. 2)

(Amended by Stats. 1998, Ch. 918 (AB 2406), Sec. 2, Effective September 28, 1998)

§31470.4. Persons eligible

All county foresters, county firewardens, deputies or assistant county foresters, deputies or assistant county firewardens, firefighters, fire apparatus engineers, fire prevention inspectors, forest firemen, fire patrolmen, aircraft pilots, and foremen assigned to fire suppression crews, all other personnel assigned to active fire suppression in any county forester's or county firewarden's department and all officers, engineers, and firemen of any county fire protection district, and all other personnel assigned to active fire suppression in any county fire protection district are eligible.

(Amended by Stats. 1981, Ch. 641, Sec. 1)

§31470.5. Persons ineligible

Bookkeepers, stenographers, cooks, laborers, county fire protection district fire foremen, call firemen, and firefighters whose principal duties clearly do not fall within the scope of active fire suppression, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active fire suppression, and volunteer employees, honorary deputy county foresters, honorary deputy county firewardens, and voluntary firewardens holding appointments as such who receive no compensation therefor and who do not regularly perform official duties, are ineligible.

(Amended by Stats. 1981, Ch. 641, Sec. 2)

§31470.6. Counties exceeding 500,000; permanent employees engaged in active law enforcement (Various)

(a) A permanent employee of a county having a population in excess of 500,000 whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons injured or imperiled in water areas at beaches and lakes, streams, dams, reservoirs, or other bodies of open water (not including swimming pools) or in small craft or airplanes at sea near the shoreline and the recovery from water areas of submerged objects and bodies of persons drowned or believed to have drowned in those areas, or the immediate supervision thereof, including persons employed to perform the duties now performed under the titles of director of beaches, assistant director of beaches, deputy director of beaches, chief lifeguard, assistant chief lifeguard, captain lifeguards, lieutenant rescue boat, lieutenant lifeguards, beach lifeguard, but who performs additional duties, some of which (including the maintenance of peace and order and the apprehension of law violators) are customarily performed by police or peace officers, and whose other duties (such as resuscitation work involving the use of special equipment in cases having no connection with their principal duties) which in other areas are customarily performed by firemen, and other and further duties (such as the rescue of persons from disabled aircraft and small boats in inshore or inland waters and the removal of dangerous obstructions from waters) which do not come directly within any of the aforesaid classifications but are essential to the safety and security of the public, excluding those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly do not fall within the scope of active lifeguarding or lifesaving service, even though a person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active lifeguarding or lifesaving service, shall be considered and is hereby classified as an employee whose principal duties consist in "active law enforcement."

Persons employed to perform the duties of director of beaches, assistant director of beaches, or deputy director of beaches shall not be within the classification of "active law enforcement" employee, unless those persons have previously been included within that classification, or have performed duties which would have qualified such person as an "active law enforcement" employee under this section.

(b) In a county with a population in excess of four million, the provisions of subdivision (a) shall also apply to persons employed under the titles and to perform the duties of division chief-public safety, assistant division chief-public safety, or district manager-public safety.

(Amended by Stats. 1990, Ch. 219, Sec. 1)

§31470.7. Status as "member" during public or county service

The election by a member to receive credit for employment in public service or in county service pursuant to Section 31641.1 or 31641.5 does not make such person a member during any part of such public service or county service.

(Added by Stats. 1955, Ch. 363, Sec. 1)

§31470.8. Determination of eligibility

In cases of doubt as to whether a person is eligible to become a safety member, the board shall decide.

(Added by renumbering Section 31470.6 by Stats. 1957, Ch. 1301, Sec. 3)

§31470.9. Eligibility of public administrators, coroners, and coroner-public administrators

All public administrators, coroners and coroner-public administrators, whether compensated on a fee or salary basis, are eligible, except that the membership of such persons is subject to the approval of the board of supervisors.

(Added by Stats. 1961, Ch. 2095, Sec. 2)

§31470.10. Welfare fraud investigators and administrators budgeted within Orange County; eligibility (Orange)

Notwithstanding Section 31470.2, all welfare fraud investigators and administrators budgeted within Orange County shall be eligible, regardless of which county department actually supervises or funds them, and shall receive those benefits upon a majority vote of the board of supervisors.

(Added by Stats. 1980, Ch. 235, Sec. 1)

(Amended by Stats. 2003, Ch. 171 (AB 144), Sec. 1)

§31470.11. Welfare fraud investigators and administrators; counties in the 16th class; ineligibility; exceptions (Santa Barbara)

Notwithstanding Section 31470.2, all welfare fraud investigators and administrators in counties of the 16th class, as described by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, shall be ineligible for safety membership, unless and until the board of supervisors shall elect, by resolution adopted by a majority vote, to make those investigators and administrators eligible.

(Amended by Stats. 2000, Ch. 379 (AB 1947), Sec. 1)

§31470.12. Child support investigators and administrators; counties in the 16th class; eligibility; operation of section (Santa Barbara)

Child support investigators and administrators in counties of the 16th class, as described by Section 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, are eligible.

This section shall not be operative in any county until such time as the board of supervisors shall elect, by resolution adopted by a majority vote, to make this section applicable in the county.

(Added by Stats. 1987, Ch. 938, Sec. 2)

(Amended by Stats. 2000, Ch. 379 (AB 1947), Sec. 3)

§31470.13. Officers and employees who work with hazardous materials; eligibility

Officers and employees whose function clearly fall within the scope of hazardous materials services are eligible.

This section shall not be operative in any county until the time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

(Added by Stats. 1998, Ch. 996 (AB 2764), Sec. 4)

§31470.14. Eligibility of local prosecutors, local public defenders, and local public defender investigators

(a) Local prosecutors, local public defenders, and local public defender investigators are eligible.

(b) Except as provided in subdivision (c) and notwithstanding Sections 31639.7 and 31639.75, past service as a general member shall be converted to safety service if the past service was rendered in a position that has subsequently been reclassified as a safety position pursuant to this section. For local prosecutors, as described in paragraph (2) of subdivision (a) of Section 31469.2, service in the office of a district attorney and a local child support agency shall be considered service for the district attorney for purposes of this section.

(c) Notwithstanding any other provision of this chapter, within 90 days after this section becomes operative in the county, or on the first day of the calendar month following his or her entrance into service, whichever is later, a local prosecutor, local public defender, or local public defender investigator may file a written election not to become a local safety member pursuant to this section.

(d) Notwithstanding any other provision of this chapter, local prosecutors, local public defenders, and local public defender investigators shall be subject to the benefit formula contained in Section 31664 or 31664.2, or any other benefit formula applicable to safety members that does not provide benefits greater than those benefits provided under Section 31664.2, as designated in the resolution described in subdivision (e). A local prosecutor, local public defender, or local public defender investigator shall not be deemed to be a county peace officer, as defined in Section 31469.1, for any purpose under this chapter.

(e) This section shall not be operative in a county unless and until the board of supervisors, by resolution adopted by majority vote, makes this section operative in the county. A resolution to make this section operative in the county shall include all local prosecutors, local public defenders, and local public defender investigators described in Section 31469.2.

(f) A provision in a memorandum of understanding that an employer is not obligated to meet and confer regarding wages, hours, or conditions of employment during the term of the memorandum shall not be construed to preclude meetings regarding the provisions of this section between an employer and local prosecutors, local public defenders, and local public defender investigators prior to the expiration of the term of the memorandum of understanding.

(g) This section does not apply to any person described in Section 31469.2 who dies prior to the date this section becomes applicable in the county.

(Added by Stats. 2002, Ch. 1152 (AB 2023), Sec. 12)

§31470.25. Orange County; safety membership for specified law enforcement personnel (Orange)

(a) All sheriffs, undersheriffs, assistant sheriffs, chief deputy sheriffs, captains, lieutenants, sergeants, jailers, turnkeys, deputy sheriffs, bailiffs, constables, deputy constables,

motorcycle officers, aircraft pilots, detectives, and investigators in the office of the district attorney, and marshals and all regularly appointed deputy marshals, who are first so employed on or after the operative date of this section in a county, are eligible. This section is an alternative to Section 31470.2.

(b) This section shall apply only in a county of the second class, as defined by Sections 28020 and 28023, as amended by Chapter 1204 of the Statutes of 1971.

(c) This section shall not be operative in a county unless and until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in that county.

(Added by Stats. 1991, Ch. 593, Sec. 1)

(Amended by Stats. 2006, Ch. 538 (SB 1852), Sec. 305)

§31471. "Pension" defined

"Pension" means payments for life derived from contributions made from funds controlled by the board of supervisors, or from funds of a district.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31471.5. "Recognized retiree organization" defined

"Recognized retiree organization" means an organization in which a majority of the members of the organization are retired members of the system and which the board, upon request, has approved recognition.

(Added by Stats. 2012, Ch. 178 (SB 1382), Sec. 2)

§31472. "Regular interest" defined

"Regular interest" means interest at 2 ½ percent a year until otherwise determined by the board compounded semiannually on June 30th and December 31st.

(Amended by Stats. 1949, Ch. 1228, Sec. 2)

§31472.1. "Regular interest" or "interest" defined; deposits as including redeposits

"Regular interest" or "interest" when used for purposes of computing deposits under this chapter, except as otherwise specifically provided, shall mean that amount of interest which would have been credited to the account of the member on the amount to be deposited at the interest rates established for the system if the contributions required to be deposited had been made in the amounts and at the time required if the member had been making such deposits during the time service was rendered until the amount required to be deposited has been paid. For purposes of this section "deposits" includes "redeposits".

(Added by Stats. 1970, Ch. 369, Sec. 1)

§31473. "Retirement allowance" defined

"Retirement allowance" means the pension plus the annuity.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31474. "Retirement association" defined

"Retirement association" means an association of all persons who may qualify as annuitants or beneficiaries pursuant to this chapter.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31475. "Retirement fund" defined

"Retirement fund" means the Employees Retirement Fund.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31476. "Retirement system" defined; system created by Stats. 1937, Ch. 677 as amended, continued

"Retirement system" means each of the systems created and established pursuant to this chapter or its predecessor.

The retirement system for county employees created by Chapter 677 of the Statutes of 1937, as amended, is continued in existence under this chapter.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31477. "Salary fund" defined

"Salary fund" means the fund from which salaries are ordinarily paid.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31478. "Public agency" defined

"Public agency" means the United States of America, this state, or any department or agency of either, or any county, or any city, which city or county is within this state, or any public corporation, municipal corporation, or public district, which public corporation, municipal corporation, or public district is situated in whole or in part within the county, and any local agency formation commission.

Section 31468 does not apply to this section.

(Amended by Stats. 1968, Ch. 1261, Sec. 3)

§31479. "Public service" defined

"Public service" means service rendered as an officer or employee of a public agency for which service the officer or employee received compensation from the public agency and with respect to which he is not entitled to receive credit in any retirement system supported wholly or in part by public funds after he becomes a member of this system.

(Added by Stats. 1955, Ch. 363, Sec. 3)

§31479.1. Credit for service as unpaid city councilman

(a) (1) Notwithstanding Section 31479, an elective or appointive county official may receive credit for service rendered as a city council member even though that service was not compensated.

(2) This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors.

(b) This section shall not apply to service performed as an elective or appointive officer that is subject to the California Public Employees' Pension Reform Act of 2013.

(Added by Stats. 1974, Ch. 554, Sec. 1, Effective August 27, 1974)

(Amended by Stats. 2010, Ch. 669 (SB 894), Sec. 6)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 11)

§31479.2. Public service; officer or employee for department or agency of the District of Columbia

"Public service" also means service rendered as an officer or employee of a department or agency of the District of Columbia for which the officer or employee received compensation and with respect to which he is not entitled to receive credit in any retirement system supported wholly or in part by public funds after he becomes a member of this system.

(Added by Stats. 1976, Ch. 1476, Sec. 1)

§31479.3. Public service; merchant marine; purchase of credits; computation of benefits

"Public service" also means service in the merchant marine of the United States during the period of December 7, 1941, through August 15, 1945, whether or not the employee received compensation from the United States Government and with respect to which he or she is not entitled to receive credit in any retirement system supported wholly or in part by public funds after he or she became a member of this system. This section shall apply to both members and retired members of a county retirement association subject to this chapter. Both members and retired members may purchase public service credit pursuant to Sections 31641.1 and 31641.2. For a retired member the additional pension amount accruing because of any public service credit purchased shall be computed as though the service had been credited on the effective date of retirement and increased by any cost-of-living increases which may have been granted since the effective date of retirement and shall begin as of the first of the month following either the date of receipt of the retired member's election to purchase the credit pursuant to Section 31641.1 or the date of receipt of the full cost of the purchase computed pursuant to Section 31641.2 whichever is later.

This section shall not be operative in any county until the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

(Added by Stats. 1990, Ch. 433, Sec. 1)

§31480. Service requirements

The provisions of this chapter, as they apply to retirement for service or disability, deferred retirement, and the death benefit, shall not be applicable to any member claiming public service pursuant to Section 31478 or to any member claiming service credit for uncompensated illness leave of absence in excess of 12 consecutive months pursuant to Section 31646.1, unless such member has rendered service, other than the public service or the uncompensated illness leave of absence for which the member has elected to receive credit, sufficient to meet the minimum requirements of this chapter covering each of the benefits enumerated in this section.

(Amended by Stats. 1988, Ch. 81, Sec. 1)

§31481. Effect of amendment of chapter

An amendment either heretofore or hereafter made to this chapter, unless expressly stated otherwise, does not grant, take away, or otherwise affect the right to, or the amount of, any retirement allowance, or other benefit, of:

(a) Any member who has retired or shall retire prior to the effective date of such amendment.

(b) The spouse, children, beneficiary or coannuitant of any member if such member has retired or shall retire prior to the effective date of such amendment.

(c) The spouse, children, beneficiary or coannuitant of any member, if such member has died or shall die, prior to retirement and prior to the effective date of such amendment.

(Added by Stats. 1959, Ch. 1184, Sec. 2)

§31482. Participant in deferred compensation plan; eligibility for participation

Notwithstanding any other provision of law, a participant in a deferred compensation plan established pursuant to Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, may also participate in a retirement system of a public agency established pursuant to this chapter.

(Added by Stats. 1972, Ch. 1370, Sec. 9)

§31482.5. Application; concurrent participation; credit for service

(a) Notwithstanding any provisions to the contrary in Section 20894, this section shall apply to all participants in retirement systems governed by this chapter.

(b) A person shall not receive credit for the same service in two retirement systems supported wholly or in part by public funds under any circumstance.

(c) Nothing in this section shall preclude concurrent participation and credit for service in a public retirement system and in a deferred compensation plan that meets the requirements of Section 457 of Title 26 of the United States Code, a tax-deferred retirement plan that meets the requirements of Section 40l(k) of Title 26 of the United States Code, or a defined contribution plan and trust that meets the requirements of Section 401(a), 403(b), or 415(m) of Title 26 of the United States Code.

(d) Nothing in this section shall preclude concurrent participation and credit for service in the defined benefit plan provided under this chapter and in a supplemental defined benefit plan maintained by the employer that meets the requirements of Section 401(a) of Title 26 of the United States Code, provided all of the following conditions exist:

(1) The defined benefit plan provided under this chapter has been designated as the employer's primary plan for the person and the supplemental defined benefit plan is adopted by the governing body of the employer.

(2) The supplemental defined benefit plan has received a ruling from the Internal Revenue Service stating that the plan qualifies under Section 401(a) of Title 26 of the United States Code, and has furnished proof thereof to the employer.

(3) The person's participation in the supplemental defined benefit plan does not, in any way, interfere with the person's rights to membership in the defined benefit plan, or any benefit provided, under this chapter.

(e) If any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, that provision shall not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013 for all or any portion of his or her membership in the county retirement system.

(Added by Stats. 2008, Ch. 219 (AB 1963), Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 12)

§31483. Termination of optional provisions

Notwithstanding any other provision of law, whenever the governing body of a county or district has made a particular provision or provisions of this chapter applicable in such county or district through the adoption of an ordinance or resolution, such governing body may at any time thereafter adopt a further ordinance or resolution terminating the applicability of such provision or provisions as to employees of the county or district whose services commence after a given future date specified in the latter ordinance or resolution.

(Added by Stats. 1977, Ch. 597, Sec. 1)

§31484. San Diego County; termination of certain additional benefits; request of members (San Diego)

Notwithstanding any other provision of law, whenever the governing body of a county or district has made a particular provision or provisions of this chapter providing for increased benefits applicable to such county or district through the adoption of an ordinance or resolution, such governing body may at any time thereafter adopt another ordinance or resolution terminating the applicability of such provision or provisions as to current employees of the county or district who elect by written notice filed with the board to have the

applicability of such provision or provisions determined as to them. This section is intended only to authorize the termination of those benefits which the governing body of a county or district elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. Nothing herein shall be construed as authorizing the governing body of a county or district to terminate the basic benefits required under the provisions of this chapter.

The governing board of a county or district prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions shall provide oral or written explanation of the effect and impact of such termination for each member requesting termination of the applicability of any such provisions.

The governing board shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that such member has been fully informed regarding the effect of such termination, and understands that such termination of a provision or provisions is irrevocable. Such affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person.

The governing body shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of such provision or provisions terminated, specify the provision or provisions which shall be applicable to current employees making the election. Employees who elect to have such provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the basis of the provision made applicable by the governing body.

Except as otherwise provided herein, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during the period of service.

Any employee who has made such an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at the date of retirement. Any employee who has made an election whereby the definition of "final compensation" in Section 31462.1 no longer applies, shall have the definition of "final compensation" in Section 31462 applied at the date of retirement regardless of previous service under the provisions of section 31462.1. Any employee who has made an election whereby a cost-of-living adjustment provision of Article 16.5 (commencing with Section 31870) no longer applies shall have the cost-of-living adjustment provision, if any, specified by the governing body applied to all previous service at the date of retirement regardless of previous service under such other provision of Article 16.5. Any employee who has made an election whereby a death benefit provision of Article 12 (commencing with Section 31780) no longer applies, shall have the death benefit provisions specified by the governing body applied at the date of retirement regardless of previous service under other provisions of Article 12.

A current employee who has elected to have the applicability of such provision or provisions terminated may not rescind such an election unless the governing body of the county or district again makes the particular provision or provisions applicable to the county or district through the adoption of a subsequent ordinance or resolution. Any such election made by a current employee shall be binding upon the employee's spouse and all others claiming benefits under such employee's entitlement.

This section shall not be applicable to safety members.

This section shall only be applicable to a county of the third class as described by Section 28024.

(Added by Stats. 1979, Ch. 980, Sec. 1)

§31484.5. San Mateo County; termination of certain additional benefits; request of members (San Mateo)

Notwithstanding any other provision of law, whenever the governing body of a county or district has made a particular provision or provisions of this chapter providing for increased benefits applicable to such county or district through the adoption of an ordinance or resolution, such governing body may, at any time thereafter, adopt another ordinance or resolution terminating the applicability of such provision or provisions as to current employees of the county or district who elect by written notice filed with the board to have the applicability of such provision or provisions terminated as to them. This section is intended only to authorize the termination of those benefits which the governing body of a county or district elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. Nothing herein shall be construed as authorizing the governing body of a county or district to terminate the basic benefits required under the provisions of this chapter.

The governing board of a county or district, prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions, shall provide written explanation of the effect and impact of such termination for each member requesting termination of the applicability of any such provisions.

The governing board shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that such member has been fully informed regarding the effect of such termination, and understands that such termination of a provision or provisions is irrevocable. Such affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person.

The governing body shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of such provision or provisions terminated, specify the provision or provisions which shall be applicable to current employees making the election. Employees who elect to have such provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the basis of the provision made applicable by the governing body.

Except as otherwise provided herein, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service.

Any employee who has made such an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at the date of retirement. Any employee who has made an election whereby the definition of "final compensation" in Section 31462.1 no longer applies, shall have the definition of "final compensation" in Section 31462 applied at the date of retirement regardless of previous service under the provisions of Section 31462.1. Any employee who has made an election whereby a cost-of-living adjustment provision of Article 16.5 (commencing with Section 31870) no longer applies shall have the cost-of-living adjustment provision, if any, specified by the governing body applied to all previous service at the date of retirement regardless of previous service under such other provision of Article 16.5. Any employee making such election shall be refunded all moneys contributed by that employee for those benefits, and such employee shall be deemed to thereby have waived and relinquished any right to such automatic cost-of-living benefits.

A current employee who has elected to have the applicability of such provision or provisions terminated may not rescind such an election unless the governing body of the county or district again makes the particular provision or provisions applicable to the county or

district through the adoption of a subsequent ordinance or resolution. Any such election made by a current employee shall be binding upon the employee's spouse and all others claiming benefits under such employee's entitlement.

This section shall only be applicable to a county of the 10th class as described by Section 28031.

(Added by Stats. 1980, Ch. 442, Sec. 1)

§31484.6. Marin County; termination of certain additional benefits; request of members (Marin)

Notwithstanding any other provision of law, whenever the governing body of a county or district has made a particular provision or provisions of this chapter providing for increased benefits applicable to that county or district through the adoption of an ordinance or resolution, the governing body may at any time thereafter adopt another ordinance or resolution terminating the applicability of that provision or provisions as to current employees of the county or district who elect by written notice filed with the board to have the applicability of the provision or provisions terminated as to them. This section is intended only to authorize the termination of those benefits which the governing body of a county or district elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. Nothing herein shall be construed as authorizing the governing body of a county or district to terminate the basic benefits required under the provisions of this chapter.

The governing board of a county or district prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions shall provide an oral or written explanation of the effect and impact of the termination for each member requesting termination of the applicability of any such provisions.

The governing board shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that the member has been fully informed regarding the effect of the termination, and understands that the termination of a provision or provisions is irrevocable. The affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person.

The governing body shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of such provision or provisions terminated, specify the provision or provisions which shall be applicable to current employees making the election. Employees who elect to have the provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the basis of the provision made applicable by the governing body.

Except as otherwise provided herein, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service.

Any employee who has made such an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at the date of retirement. Any employee who has made an election whereby the definition of "final compensation" in Section 31462.1 no longer applies, shall have the definition of "final compensation" in Section 31462 applied at the date of retirement regardless of previous service under the provisions of Section 31462.1. Any employee who has made an election whereby a cost-of-living adjustment provision of Article 16.5 (commencing with Section 31870) no longer applies shall have the cost-of-living adjustment provision, if any, specified by the governing body applied to all previous service at the date of retirement regardless of previous service

under such other provision of Article 16.5. Any employee who has made an election whereby a death benefit provision of Article 12 (commencing with Section 31780) no longer applies shall have the death benefit provisions specified by the governing body applied at the date of retirement regardless of previous service under other provisions of Article 12.

A current employee who has elected to have the applicability of the provision or provisions terminated may not rescind such an election unless the governing body of the county or district again makes the particular provision or provisions applicable to the county or district through the adoption of a subsequent ordinance or resolution. Any such election made by a current employee shall be binding upon the employee's spouse and all others claiming benefits under such employee's entitlement.

This section shall not be applicable to safety members.

This section shall only be applicable to a county of the eighteenth class as described by Section 28039.

(Added by Stats. 1981, Ch. 379, Sec.1)

§31484.7. Merced County; termination of certain additional benefits; request of members (Merced)

Notwithstanding any other provision of law, whenever the governing body of a county or district has made a particular provision or provisions of this chapter providing for increased benefits applicable to such county or district through the adoption of an ordinance or resolution, such governing body may, at any time thereafter, adopt another ordinance or resolution terminating the applicability of such provision or provisions as to current employees of the county or district who elect by written notice filed with the board to have the applicability of such provision or provisions terminated as to them. This section is intended only to authorize the termination of those benefits which the governing body of a county or district elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. Nothing herein shall be construed as authorizing the governing body of a county or district to terminate the basic benefits required under the provisions of this chapter.

The governing board of a county or district, prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions, shall provide written explanation of the effect and impact of such termination for each member requesting termination of the applicability of any such provisions.

The governing board shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that such member has been fully informed regarding the effect of such termination, and understands that such termination of a provision or provisions is irrevocable. Such affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person.

The governing body shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of such provision or provisions terminated, specify the provision or provisions which shall be applicable to current employees making the election. Employees who elect to have such provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the basis of the provision made applicable by the governing body.

Except as otherwise provided herein, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service.

Any employee who has made such an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at

the date of retirement. Any employee who has made an election whereby the definition of "final compensation" in Section 31462.1 no longer applies, shall have the definition of "final compensation" in Section 31462 applied at the date of retirement regardless of previous service under the provisions of Section 31462.1. Any employee who has made an election whereby a cost-of-living adjustment provision of Article 16.5 (commencing with Section 31870) no longer applies shall have the cost-of-living adjustment provision, if any, specified by the governing body applied to all previous service at the date of retirement regardless of previous service under such other provision of Article 16.5 (commencing with Section 31870).

Any employee making such election shall be refunded all moneys contributed by that employee for those benefits, and such employee shall be deemed to thereby have waived and relinquished any right to such automatic cost-of-living benefits.

A current employee who has elected to have the applicability of such provision or provisions terminated may not rescind such an election unless the governing body of the county or district again makes the particular provision or provisions applicable to the county or district through the adoption of a subsequent ordinance or resolution. Any such election made by a current employee shall be binding upon the employee's spouse and all others claiming benefits under such employee's entitlement.

This section shall only be applicable to a county of the 25th class as described by Section 28046.

(Added by Stats. 1983, Ch. 558, Sec. 3, Effective July 28, 1983)

§31484.8. Alameda County; termination of certain additional benefits; request of members (Alameda)

Notwithstanding any other provision of law, whenever the governing body of a county or district has made a particular provision or provisions of this chapter providing for increased benefits applicable to that county or district through the adoption of an ordinance or resolution, the governing body may at any time thereafter adopt another ordinance or resolution terminating the applicability of that provision or provisions as to current employees of the county or district who elect by written notice filed with the board to have the applicability of the provision or provisions terminated as to them. This section is intended only to authorize the termination of those benefits which the governing body of a county or district elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. Nothing herein shall be construed as authorizing the governing body of a county or district to terminate the basic benefits required under the provisions of this chapter.

The governing board of a county or district prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions shall provide an oral or written explanation of the effect and impact of the termination for each member requesting termination of the applicability of any such provisions.

The governing board shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that the member has been fully informed regarding the effect of the termination, and understands that the termination of a provision or provisions is irrevocable. The affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person.

The governing body shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of such provision or provisions terminated, specify the provision or provisions which shall be applicable to current employees making the election. Employees who elect to have the provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the

basis of the provision made applicable by the governing body.

The retirement allowance for services rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service. Any employee who has made such an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable to the date of retirement.

A current employee who has elected to have the applicability of the provision or provisions terminated may not rescind such an election unless the governing body of the county or district again makes the particular provision or provisions applicable to the county or district through the adoption of a subsequent ordinance or resolution. Any such election made by a current employee shall be binding upon the employee's spouse and all others claiming benefits under such employee's entitlement.

An employee may make the election described herein at any time. The effective date of the election shall be the first day of the biweekly payroll period following execution and filing of the employee's affidavit.

An employee suffering a break in service shall, if he or she returns to covered employment within three years of the date of separation, return at the higher level if and only if his or her prior coverage was at that level. The provision in this paragraph applies only to separations occurring between June 30, 1983, through and including June 30, 1988, and further applies only to employees who were active members on June 30,1983, and to employees laid off prior to that date who were on a civil service reemployment list on June 30, 1983. This provision does not apply to employees leaving the retirement system because of a change of status from full time to part time, regular appointment to project appointment and back to regular appointment, or regular appointment to intermittent appointment and back to regular appointment.

After June 30, 1988, an employee who is laid off and rehired within one year from the date of separation shall return at the higher level if and only if his or her prior coverage was at that level.

A former employee who has elected retirement from the higher benefit level and who returns to covered employment shall return to the higher benefit level. The benefit levels described in this section are those in existence on July 1, 1983. This section shall only be applicable to a county of the fourth class as described by Sections 28020 and 28025.

(Added by Stats. 1984, Ch. 328, Sec.1)

§31484.9. Contra Costa County authorized to establish different retirement benefits for different bargaining units of safety employees represented by county deputy sheriff association, and unrepresented employees in similar job classifications.

(a) This section shall apply to the retirement system of Contra Costa County and only if the board of supervisors of that county adopts, by majority vote, a resolution making this section applicable in the county. Notwithstanding any other law, the board of supervisors may make this section applicable in the county on a date specified in the resolution, which date may be different than the date of the resolution.

(b) (1) When the board of supervisors meets and confers pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1) with the Contra Costa County Deputy Sheriffs' Association, the parties may agree, pursuant to a memorandum of understanding as described in Section 3505.1, that the provisions of this section shall apply to safety employees represented by the Contra Costa County Deputy Sheriffs' Association.

(2) The terms of any agreement reached with the Contra Costa County Deputy Sheriffs' Association pursuant to this subdivision shall be made applicable by the board of supervisors to unrepresented county employees who are safety members in the Contra Costa

County Sheriff's Office and in similar job classifications as employees within applicable bargaining units and the supervisors and managers of those employees.

(3) An ordinance or resolution adopted pursuant to this section may establish different retirement benefits for different bargaining units of safety employees represented by the Contra Costa County Deputy Sheriffs' Association and the unrepresented groups of safety employees in similar job classifications and the supervisors and managers of those employees The ordinance or resolution may also establish the time period during which employees may make an election under this section and the date on which an employee shall be employed to be subject to this section.

(c) (1) Notwithstanding any other law, if the board of supervisors makes a particular provision or provisions of this chapter providing for increased benefits applicable to safety employees of the county represented by the Contra Costa County Deputy Sheriffs' Association through the adoption of an ordinance or resolution, the board of supervisors may at any time thereafter adopt another ordinance or resolution terminating the applicability of that provision or provisions as to current employees of the county who elect by written notice filed with the board to have the applicability of the provision or provisions terminated as to those employees. This section is intended only to authorize the termination of those benefits that the board of supervisors elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. The termination of benefits shall be consistent with the memorandum of understanding described in subdivision (b). Nothing in this section shall be construed as authorizing the board of supervisors to terminate the basic benefits required under the provisions of this chapter.

(2) The board of supervisors, prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions shall provide a written explanation of the effect and impact of the termination for each member requesting termination of the applicability of any provisions.

(3) The board of supervisors shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that the member has been fully informed regarding the effect of the termination, and understands that the termination of a provision or provisions is irrevocable. The affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person and shall waive and release any right to a benefit under the terminated provision or provisions for the period of service following the election.

(4) The board of supervisors shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of the provision or provisions terminated, and consistent with the memorandum of understanding described in subdivision (b), specify the provision or provisions that shall be applicable to current employees making the election. More than one optional set of provisions may be made available for election, including, but not limited to, the "3 Percent at 55" retirement formula, a cost-of-living adjustment, and the definition of final compensation pursuant to Section 31462 or 31462.1.

(5) Employees who elect to have the provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the basis of the provision made applicable by the board of supervisors. Except as otherwise provided in this section, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service and the retirement allowance for service rendered on or after the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service. The total retirement allowance for an employee subject to this section shall be the sum of the retirement allowance calculated for service rendered

prior to the effective date of the election and the retirement allowance calculated for service rendered on or after the effective date of the election. Any employee who has made an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at the date of retirement.

(6) Any employee who has made an election that the definition of "final compensation" in Section 31462.1 no longer applies, shall have the definition of "final compensation" in Section 31462.1 applied to all service rendered prior to the effective date of the election and the definition of "final compensation" in Section 31462 applied to all service rendered on or after the effective date of the election. For purposes of applying Section 31835 to a retirement system other than the retirement system in Contra Costa County, the highest average compensation described in this paragraph shall apply.

(7) Any employee who has made an election that a cost-of-living adjustment provision of Article 16.5 (commencing with Section 31870) no longer applies shall have the cost-of-living adjustment provision, if any, for service rendered prior to the effective date of the election calculated on the basis of the cost-of-living adjustment provision applicable during that period of service. Any cost-of-living adjustment provision specified by the board of supervisors for service rendered after the effective date of the election shall apply solely to that service. A termination of benefits shall be consistent with the memorandum of understanding described in subdivision (b).

(8) A current employee who has elected to have the applicability of the provision or provisions terminated may not rescind that election, unless the board of supervisors again makes the particular provision or provisions applicable to the employees who are represented by the Contra Costa County Deputy Sheriffs'Association, through the adoption of a subsequent ordinance or resolution pursuant to a memorandum of understanding as described in Section 3505.1.

(9) An election made by a current employee shall be binding upon the employee's spouse and all others claiming benefits under that employee's entitlement.

(Amended by Stats. 2011, Ch. 68 (SB 373), Sec. 1)

§31485. Ventura County; termination of certain additional benefits; request of members (Ventura)

Notwithstanding any other provision of law, whenever the governing body of a county or district following meet and confer has made a particular provision or provisions of this chapter providing for increased benefits applicable to such county or district through the adoption of an ordinance or resolution, such governing body may at any time thereafter adopt another ordinance or resolution terminating the applicability of such provision or provisions as to current employees of the county or district who elect by written notice filed with the board to have the applicability of such provision or provisions terminated as to them. This section is intended only to authorize the termination of those benefits which the governing body of a county or district elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. Nothing herein shall be construed as authorizing the governing body of a county or district to terminate the basic benefits required under the provisions of this chapter.

The governing board of a county or district prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions shall provide oral and written explanation of the effect and impact of such termination for each member requesting termination of the applicability of any such provisions.

The governing board shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that such member has been fully informed regarding the effect of such termination and understands that such termination of a provision

or provisions is irrevocable. Such affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person.

The governing body shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of such provision or provisions terminated, specify the provision or provisions which shall be applicable to current employees making the election. Employees who elect to have such provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the basis of the provision made applicable by the governing body.

Except as otherwise provided herein, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service. Any employee who has made such an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at the date of retirement. Any employee who has made an election whereby the definition of "final compensation" in Section 31462.1 no longer applies, shall have the definition of "final compensation" in Section 31462 applied at the date of retirement regardless of previous service under the provisions of section 31462.1. Any employee who has made an election whereby a cost-of-living adjustment provision of Article 16.5 (commencing with Section 31870) no longer applies shall have the cost-of-living adjustment provision, if any, specified by the governing body applied to all previous service at the date of retirement regardless of previous service under such other provision of Article 16.5. Any employee making such election shall be refunded all moneys contributed by that employee for those benefits, and such employee waives and relinquishes all rights to such automatic cost-of-living benefits.

A current employee who has elected to have the applicability of such provision or provisions terminated may not rescind such an election unless the governing body of the county or district again makes the particular provision or provisions applicable to the county or district through the adoption of a subsequent ordinance or resolution. Any such election made by a current employee shall be binding upon the employee's spouse and all others claiming benefits under such employee's entitlement.

This section shall not be applicable to safety members.

This section shall only be applicable to a county of the thirteenth class as described by Section 28034.

(Added by Stats. 1980, Ch. 38, Sec. 1)

§31485.5. Defined contribution plans; administration; legislative intent

It is the intent of the Legislature that counties that are considering the adoption of defined contribution plans, also consider having those plans administered by their county retirement systems.

(Added by Stats. 1991, Ch. 1108, Sec. 3.5, Effective October 14, 1991)

§31485.6. Treasurer

"Treasurer" as used in Sections 31595.9, 31625, 31625.1, 31629, and 31706 means the county treasurer or any other entity authorized by the board.

(Added by Stats. 1995, Ch. 584 (AB 1021), Sec. 4)

§31485.7. Retirement service credit; purchase; operation of section

(a) Notwithstanding any other provision of this chapter, a member who elects to purchase retirement service credit under Section 31486.3, 31486.35, 31499.3, 31499.13, 31641.1, 31641.5, 31641.55, 31646, 31652, or 31658, or under the regulations adopted by the board

pursuant to Section 31643 or 31644 shall complete that purchase within 120 days after the effective date of his or her retirement.

(b) This section is not operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

(Added by Stats. 1996, Ch. 493 (SB 792), Sec. 4)

(Amended by Stats. 2003, Ch. 261 (AB 55), Sec. 1, Effective September 4, 2003)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 1)

(Amended by Stats. 2006, Ch. 834 (AB 3033), Sec. 3.5)

(Amended by Stats. 2007, Ch. 130 (AB 299), Sec. 127)

§31485.8. Counties of the first class; retirement service credit; purchase; application of section (Los Angeles)

(a) Notwithstanding any other provision of this chapter, a member who elects to purchase retirement service credit under Section 31490.5, 31490.6, 31494.3, 31494.5, 31641.1, 31641.5, 31646, 31652, or 31658, or under the regulations adopted by the board pursuant to Section 31643 or 31644 shall complete that purchase within 120 days after the effective date of his or her retirement.

(b) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Amended by Stats. 2003, Ch. 261 (AB 55), Sec. 2, Effective September 4, 2003)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 2)

(Amended by Stats. 2006, Ch. 117, (AB 2240), Sec. 2)

(Amended by Stats. 2007, Ch. 130, (AB 299), Sec. 128)

§31485.9. Provision of retirement benefits for some but not all general members of a county or district; Provision of different benefits for certain subgroups within a membership classification

(a) Notwithstanding any other provision of law, including, but not limited to, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, no resolution, ordinance, contract, or contract amendment under this chapter adopted on or after January 1, 2004, may provide any retirement benefits for some, but not all, general members of a county or district.

(b) No resolution, ordinance, contract, or contract amendment under this chapter adopted on or after January 1, 2004, may provide different retirement benefits for any subgroup of general members within a membership classification, including, but not limited to, bargaining units or unrepresented groups, unless benefits provided by statute for members hired on or after the date specified in the resolution are adopted by the county or district governing board, by resolution adopted by majority vote, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 2). All nonrepresented employees within similar job classifications as employees in a bargaining unit subject to a memorandum of understanding, or supervisors and managers thereof, shall be subject to the same formula for the calculation of retirement benefits applicable to the employees in the bargaining unit. No retirement contract amendment may be imposed by the employer in absence of a memorandum of understanding under the Meyers-Milias-Brown Act.

(c) This section does not preclude changing membership classification from one membership classification to another membership classification.

(d) This section shall not apply to retirement benefits for a member described in paragraph (2) of subdivision (d) of Section 31676.15.

(Added by Stats. 2003, Ch. 852 (AB 1587), Sec. 1)

(Amended by Stats. 2007, Ch. 86 (AB 1255), Sec. 1, Effective July 17, 2007, as an urgency statute)

§31485.10. San Mateo County authority to provide retirement benefits to some but not all general members or safety members; different formula for membership classifications

(a) Notwithstanding any other provision of law, in a county of the 10th class, as defined in Sections 28020 and 28031, the board of supervisors may, by resolution, ordinance, contract, or contract amendment under this chapter, provide any retirement benefits for some, but not all, general members or safety members of a county.

(b) The resolution, ordinance, contract, or contract amendment described in subdivision (a) may provide a different formula for calculation of retirement benefits, by making any section of this chapter applicable to any subgroup of members within a membership classification, including, but not limited to, bargaining units, or unrepresented groups, applicable to service credit earned on and after the date specified in the resolution, which date may be earlier than the date the resolution is adopted.

(c) A resolution adopted pursuant to this section may require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified in subdivision (b), as adopted by the board or governing body, had been in effect during the period of time designated in the resolution. The payment by a member shall become part of the accumulated contributions of the member. For those members who are represented by a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors and the employee representatives.

(d) A resolution adopted pursuant to this section may require safety members hired on and after the effective date of the act adding this subdivision to pay all or part of the contributions by a member or employer, or both. The payment by a safety member shall become part of the accumulated contributions of the safety member. For those safety members who are represented by a bargaining unit, the payment requirement and any changes to the payment requirement shall not be effective until approved in a memorandum of understanding executed by the board of supervisors and the employee representatives.

(e) This section shall only apply to members who retire on or after the effective date of the resolution described in subdivision (a) or (b).

(f) This section shall not become operative unless and until the county board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county.

(Amended by Stats. 2011, Ch. 390 (AB 89), Sec. 1, Effective October 2, 2011, as an urgency statute)

§31485.11. Counties of the fourth or 25th class; authority to provide different retirement benefits for some safety member bargaining units; different formula for calculation of benefits; contributions; separate negotiations

(a) Notwithstanding any other provision of law, in a county of the fourth class, as defined in Sections 28020 and 28025, or a county of the 25th class, as defined in Sections 28020 and 28046, each as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may, by resolution, ordinance, contract, or contract amendment under this chapter, provide different retirement benefits for some safety member bargaining units within the safety member classification of a county retirement system.

(b) The resolution, ordinance, contract, or contract amendment described in subdivision (a) may provide a different formula for calculation of retirement benefits, by making any section of this chapter applicable to different safety bargaining units within the safety

member classification, applicable to service credit earned on and after the date specified in the resolution, which date may be earlier than the date the resolution is adopted. The terms of an agreement or memorandum of understanding reached with a recognized employee organization, pursuant to this subdivision, may be made applicable by the board of supervisors to any unrepresented group within the same or similar membership classification as the employees represented by the recognized employee organization or bargaining unit.

(c) A resolution adopted pursuant to this section may require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified in subdivision (b), as adopted by the board or governing body, had been in effect during the period of time designated in the resolution. The payment by a member shall become part of the accumulated contributions of the member. For those members who are represented by a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors and the employee representatives.

(d) This section shall only apply to members who retire on or after the effective date of the resolution described in subdivision (a) or (b) or on or after the date provided in the memorandum of understanding described in subdivision (c).

(e) The board of supervisors, in the resolution, ordinance, contract, or contract amendment described in subdivision (a), shall not require that a bargaining unit be divided solely for the purpose of providing different retirement benefits. However, if the members of a bargaining unit within the same or similar membership classification so elect, retirement benefits may be separately negotiated with that bargaining unit.

(f) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

(Added by Stats. 2004, Ch. 662 (AB 3008), Sec. 1, repealed January 1, 2010)

§31485.12. (Repealed January 1, 2011) Retirement benefits for some safety member bargaining units (Santa Barbara, Solano)

(a) Notwithstanding any other provision of law, in a county of the 16th class, as defined in Sections 28020 and 28037, or a county of the 22nd class, as defined in Sections 28020 and 28043, each as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may, by resolution, ordinance, contract, or contract amendment under this chapter, provide different retirement benefits for some safety member bargaining units within the safety member classification of a county retirement system.

(b) The resolution, ordinance, contract, or contract amendment described in subdivision (a) may provide a different formula for calculation of retirement benefits by making any section of this chapter that is applicable to different safety member bargaining units within the safety member classification applicable to service credit earned on and after the date specified in the resolution, which date may be earlier than the date the resolution is adopted. The terms of an agreement or memorandum of understanding reached with a recognized employee organization, pursuant to this subdivision, may be made applicable by the board of supervisors to any unrepresented group within the same or similar membership classification as the employees represented by the recognized employee organization or bargaining unit.

(c) A resolution, ordinance, contract, or contract amendment adopted pursuant to this section may require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified in subdivision (b), as adopted by the board or governing body, had been in effect during the period of time designated in the resolution, ordinance, contract, or contract amendment. The payment by a member shall become part of the accumulated contributions of the member. For those members

who are represented by a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors and the employee representatives.

(d) This section shall only apply to members who retire on or after the effective date of the resolution, ordinance, contract, or contract amendment described in subdivision (a) or (b), or on or after the date provided in the memorandum of understanding described in subdivision (c).

(e) The board of supervisors, in the resolution, ordinance, contract, or contract amendment described in subdivision (a), shall not require that a bargaining unit be divided solely for the purpose of providing different retirement benefits. However, if the members of a bargaining unit within the same or similar membership classification so elect, retirement benefits may be separately negotiated with that bargaining unit.

(f) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

(Added by Stats. 2005, Ch. 708 (AB 256), Sec. 4, Repealed January 1, 2011)

(Amended by Stats. 2006, Ch. 538 (SB 1852), Sec. 306)

§31485.13. Internal Revenue Code Compliance; Prohibition against increase in benefits prescribed by this chapter due to forfeiture of benefits

In accordance with Section 401(a)(8) of Title 26 of the United States Code, a forfeiture of benefits under this chapter shall not be applied to increase benefits that a member would otherwise receive under this chapter.

(Added by Stats. 2008, Ch. 212 (AB 1626), Sec. 1)

§31485.14. Internal Revenue Code Compliance; Distributions

All distributions of benefits provided under this chapter shall comply with the requirements of Section 401(a)(9) of Title 26 of the United States Code that are applicable to public employee plans, including, but not limited to, requirements relating to the following:

(a) The time that benefit payments begin, including benefit payments paid after the death of a member.

(b) The form of distribution of benefits.

(c) Incidental death benefits.

(Added by Stats. 2008, Ch. 212 (AB 1626), Sec. 2)

(Amended by Stats. 2009, Ch. 140 (AB 1164), Sec. 87)

§31485.15. Internal Revenue Code Compliance; Eligible rollover distributions; Trustee-to-trustee transfer

In accordance with Section 401(a)(31) of Title 26 of the United States Code, a person who is entitled to a distribution under this chapter that is an eligible rollover distribution may elect to have all or a part of that distribution paid directly to an eligible, specified plan, subject to terms and conditions established by the board. If a person elects to have the eligible rollover distribution paid to an eligible, specified plan, the payment, when it is distributable, shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan.

(Added by Stats. 2008, Ch. 212 (AB 1626), Sec. 3)

§31485.16. Counties of the fourth class; resolution requiring election of pension calculation by safety employees (Alameda)

(a) Notwithstanding any other provision of this chapter, in a county of the fourth class, as defined in Sections 28020 and 28025, as amended by Chapter 1204 of the Statutes of 1971, the

board of supervisors may, by resolution adopted by majority vote, as part of any negotiated memorandum of understanding with a bargaining unit that represents safety employees, require a safety employee of that bargaining unit or unrepresented safety employee hired after approval of the resolution, to elect in writing, either the pension calculation stated in Section 31664 or the pension calculation stated in Section 31664.2. The election shall be made within 45 calendar days of beginning employment with the county. If a new safety employee does not elect the pension calculation stated in Section 31664.2 within 45 days of beginning employment, the new safety employee shall be deemed to have elected the pension calculation stated in Section 31664. Once made, a safety employee under this section shall not be permitted to rescind his or her election.

(b) The resolution described in subdivision (a) may provide a different formula or calculation of retirement benefits for new members of other safety bargaining units or other unrepresented safety employees hired after approval of the resolution, by making any section of this chapter applicable to those different safety bargaining units or unrepresented employees, within the safety member classification, pursuant to a negotiated memorandum of understanding as described in Section 3505.1.

(c) The resolution described in subdivision (a) may provide a different formula or calculation of safety retirement benefits for new safety members in one bargaining unit than that which is provided for new safety members of other bargaining units or new unrepresented safety members.

(d) A resolution adopted pursuant to this section or previously adopted resolutions of the board may require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified within this chapter were or have been adopted by resolution. The payment by a member shall become part of the accumulated contributions of the member. For those members who are represented by a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors and the employee representatives.

(e) The board of supervisors, in a resolution described in subdivision (a), shall not require that a bargaining unit be divided solely for the purpose of providing different retirement benefits. However, if the members of a bargaining unit within the same or similar membership classification so elect, retirement benefits may be separately negotiated with that bargaining unit.

(f) Notwithstanding any other provision of law, the effective date of a resolution described in subdivision (a) may be different than the date of the resolution.

(Added by Stats. 2010, Ch. 81 (AB 1667), Sec. 1 – Urgency Statute, Effective July 15, 2010)

§31485.17. Death of member while performing qualified military service; survivors entitled to additional benefits; service-connected death or disability; credit of service for vesting; application

(a) In accordance with Section 401(a)(37) of Title 26 of the United States Code, if a member dies while performing qualified military service, as defined in Section 414(u) of Title 26 of the United States Code, the survivors of the member shall be entitled to any additional benefits that would have been provided under the retirement system had the member resumed his or her prior employment with an employer that participates in the system and then terminated employment on account of death.

(b) For purposes of this section, "additional benefits" shall not include benefit accruals relating to the period of qualified military service.

(c) The death of a member or former member while performing qualified military service shall not be treated as a service-connected death or disability.

(d) Service for vesting purposes shall be credited to a member who dies while performing qualified military service for the period of his or her qualified military service.

(e) This section shall apply to deaths occurring on or after January 1, 2007.

(Added by Stats. 2010, Ch. 188 (AB 1354), Sec. 1)

§31485.18. Authorization by memorandum of understanding to adopt a resolution to require safety employees to receive a specified pension calculation (Sacramento)

(a) Notwithstanding any other provision of this chapter, in a county of the eighth class, as defined in Sections 28020 and 28029, as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may, by resolution adopted by majority vote, if authorized by a mutually agreed upon and negotiated memorandum of understanding with a bargaining unit that represents safety employees, require a safety employee of that bargaining unit first hired after approval of the resolution, and may also require an unrepresented safety employee first hired after approval of the resolution, to receive a pension calculation provided in Section 31664.2, with a highest compensation period determined pursuant to Section 31462, and with a cost-of-living adjustment provided in Section 31870.

(b) The resolution described in subdivision (a) may provide a different formula or calculation of retirement benefits for new safety members in one bargaining unit or new unrepresented safety members than that provided for new safety members of other bargaining units or new unrepresented safety members.

(Added by Stats. 2011, Ch. 26 (AB 329), Sec. 1 – Urgency Statute, Effective June 13, 2011)

§31485.19. Rights to accrued retirement benefits nonforfeitable

Notwithstanding any other provision of this chapter, the rights of each member to his or her accrued retirement benefits under the retirement system shall be nonforfeitable, in accordance with the requirements of Sections 401(a) of Title 26 of the United States Code that are applicable to public employee plans, to the extent then funded, on the date of the termination of the system, the partial termination of the system, or the complete discontinuance of contributions under the system, as provided in Title 26 of the United States Code.

(Added by Stats. 2014, Ch. 740 (AB 2473), Sec. 1)

§31485.20. Distribution prior to the time allowed under statute

Notwithstanding any other provision of this chapter, no amount shall be distributed from a retirement system established under this chapter prior to the time that the distribution may be made in compliance with the requirements of Section 401(a) of Title 26 of the United States Code that are applicable to public employee plans, including, but not limited to, requirements relating to the distribution of amounts prior to the earlier of a member's death, disability, separation from service with all employers that maintain the retirement system, or attainment of normal retirement age, as defined by the retirement system.

(Added by Stats. 2014, Ch. 740 (AB 2473), Sec. 2)

§31485.21. Member who has not attained normal retirement age; bona fide separation of service

(a) A member who has not attained normal retirement age shall have a bona fide separation from service to the extent required by Section 401(a) of Title 26 of the United States Code before working for the county or a district. The board shall establish, by regulation, the criteria under which a bona fide separation is satisfied.

(b) Notwithstanding any other provision of this chapter, to the extent required or permitted by Section 401(a) of Title 26 of the United States Code, no amount shall be paid to

any member before the date the member has attained normal retirement age or has had a bona fide separation from service, whichever is earlier.

(c) The board may establish, by regulation, normal retirement age consistent with federal law and eligibility requirements under state law.

(d) To the extent that the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) would provide for greater restrictions with regard to separation from service, the provisions of that act shall prevail.

(Added by Stats. 2014, Ch. 740 (AB 2473), Sec. 3)

§31485.22. Benefits payable under retirement system; requirements to be fully vested

(a) A member who, while currently employed, has reached normal retirement age, as defined by the retirement system, and has met the benefit commencement requirements in Article 8 or Article 9, shall be fully vested in the benefits payable under the retirement system. Upon satisfying the requirements of this section, a member may be retired upon filing with the board a written application in the manner provided in Articles 8 and 9 of this chapter, as applicable.

(b) Notwithstanding subdivision (a), Articles 8 and 9 of this chapter, or any other applicable law, a member's earned and accrued benefits may be forfeited under Section 7522.70, 7522.72, or 7522.74.

(Added by Stats. 2014, Ch. 740 (AB 2473), Sec. 4)

Article 1.4

Alternative Plan for Counties of the 16th Class (Santa Barbara)

(Article 1.4 added by Stats. 1984, Ch. 968, Sec. 1, Effective September 10, 1984)

§31486. Designation as Retirement Plan 2; purpose, application of article and other laws (Santa Barbara)

(a) The retirement plan created by this article shall be known as Retirement Plan 2.

(b) This article shall be applicable in the retirement system of any county of the 16th class as described by Sections 28020 and 28037, if the board of supervisors executes a memorandum of understanding with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide an optional, noncontributory retirement plan for general members as an alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and who elect the plan created by this article and (2) existing general members who transfer to the plan herein created, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided in this subdivision, the provisions contained in this chapter shall apply:

(1) Article 9 (commencing with Section 31700) shall not apply.

(2) Article 10 (commencing with Section 31720) shall not apply.

(3) Article 11 (commencing with Section 31760) shall not apply.

(4) Article 12 (commencing with Section 31780) shall not apply.

(5) Article 16.5 (commencing with Section 31870) shall not apply.

(g) Article 15 (commencing with Section 31830) shall only be applicable for service retirement. Those provisions of Article 15 dealing with disability retirement, death benefits, and the requirement relating to the deposit of accumulated member contributions shall not be applicable.

(h) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually agreed between the employer and its employee representatives.

(i) Unless specifically otherwise provided therein, no amendment to this article enacted subsequent to the effective date of this article shall apply to any county or to the employees of any county unless and until mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

(Added by Stats. 1984, Ch. 968, Sec. 1, Effective September 10, 1984)

§31486.1. Definitions (Santa Barbara)

Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employers are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the time an application for retirement is filed or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, and eligible for membership as defined by the board in accordance with subdivision (h) of Section 31527, except an employee eligible for or employed in a position eligible for safety membership as defined in Sections 31470.2 and 31470.4.

(f) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the age of 65.

(g) "Service" means the period of uninterrupted employment of a member. Except as otherwise provided, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

(Added by Stats. 1984, Ch. 968, Sec. 1, Effective September 10, 1984)

§31486.2. No contributions by general members; transferees; refunds; interest; election (Santa Barbara)

(a) (1) Except as otherwise provided in Section 31486.3 or 31486.35, there shall be no general members' contributions under the plan created by this article.

(2) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. A refund under this section shall be payable to the member.

(3) A member who has five or more years of county service as defined in subdivision (g) of Section 31486.1 may elect to leave his or her contributions on deposit for service retirement benefits only.

(b) (1) Except as provided in Sections 31486.3 and 31486.9 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and may not receive credit for that prior public service.

(2) Absence from work without pay may not be considered as breaking the continuity of service.

(Added by Stats. 1984, Ch. 968, Sec. 1, Effective September 10, 1984)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 3)

(Amended by Stats. 2006, Ch. 117 (AB 2240), Sec. 3)

§31486.3. Election to make contributions and receive credit; purchase rights; contributory plan; operation of section (Santa Barbara)

(a) An active member governed by the provisions of this article may elect, by written notice filed with the board, to make contributions and receive credit under this plan for service for which he or she would not otherwise be entitled to receive credit pursuant to this article.

(b) A member who elects to receive service credit pursuant to this section shall have the same purchase rights and shall contribute to the retirement fund the amount that a member in the contributory plan wishing to purchase the same service would have to contribute, based on the rates applicable to a member of the contributory plan with the same date of entry into membership. Payment shall be made by lump-sum payment or by installment payments over a period not to exceed 10 years, prior to the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7.

(c) No member may receive any service credit under this section for which he or she has not completed payment pursuant to subdivision (b) before the effective date of his or her retirement or, if applicable, before the date provided in Section 31485.7. Subject to the limitations of federal law, a member who has elected to make payments in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(d) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(e) As used in this section, the "contributory plan" means that contributory plan otherwise available to new members of the system on the election date.

(f) This section is not operative until the board of supervisors elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Former Section 31486.35 was added by Stats. 1984, Ch. 968, Sec. 1, effective September 10, 1984, and repealed by Stats. 2004, Ch. 533 (AB 2234), Sec. 4)

(Added by Stats. 2004, Ch. 533 (AB 2234), Sec. 5)

(Amended by Stats. 2006, Ch. 369 (SB 777), Sec. 2)

§31486.35. (Operative Date Contingent) Additional Retirement Credit; Eligibility; Procedure

(a) An active member may elect, by written notice filed with the board, to make contributions pursuant to this section and to receive up to five years of service credit in the

retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service retirement or for purposes of establishing eligibility for benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) A member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for additional retirement credit that he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative in a county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(Added Stats. 2006, Ch. 117 (AB 2240), Sec. 4, operative date contingent)

§31486.36. Death of member; Payment of contributions to member's beneficiaries

Upon the death of an active or former member of the plan established by this article, an amount equal to the accumulated contributions made by the member pursuant to this article, with interest on that amount, shall be paid to the member's beneficiaries.

(Added Stats. 2008, Ch. 72 (AB 2041), Sec. 1)

§31486.4. Retirement; time of vesting; eligibility; application; benefits (Santa Barbara)

(a) Retirement of a member or former member who has met the requirements for age and service shall be made by the board, at which time the member or former member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the plan created by this article.

(c) Any vested member or vested former member who has attained the age of 65 years may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date.

(d) Any vested member or vested former member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month

to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

In no event shall the normal retirement pension, when added to the estimated primary insurance amount, exceed 70 percent of the member's final compensation unless the years of service to which the member is entitled to be credited at retirement exceeds 35, in which case the normal retirement pension, when added to the estimated primary insurance amount, shall not exceed 80 percent of the member's final compensation.

(f) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of the retirement, in the following table:

Age	ERA Factor
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61
61	.67
62	.74
63	.82
64	.90

The ERA Factors set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

(g) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age and salary as of the date of retirement or the date of termination of a vested member, whichever is applicable provided that:

(1) An employee's prior career earnings shall be assumed to have been subject to the federal system and to have increased on a year-to-year basis at a rate equivalent to the rate of increase in the average per worker total wages reported by the Social Security Administration, and

(2) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (i) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, which is applicable, and (ii) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (iii) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(h) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(i) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31492.

(j) Notwithstanding subdivision (e) of Section 31491, any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(Added by Stats. 1984, Ch. 968, Sec. 1, Effective September 10, 1984)

§31486.5. Modification election to coordinate with federal pension (Santa Barbara)

A member who retires for service prior to the age of becoming eligible for benefits described under the subdivision (f) of Section 31486.1 may, with the approval of the board, elect to have the retirement pension increased prior to the eligible age and reduced after that age by amounts which have equivalent actuarial values. This modification is for the purpose of coordinating a member's retirement pension with that received from the federal system.

(Added by Stats. 1984. Ch. 968, Sec. 1, Effective September 10, 1984)

§31486.6. Death benefits; election for lower pension to obtain different survivor allowance (Santa Barbara)

(a) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (c), shall be continued during and throughout the life of his or her surviving spouse, if he or she was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including stepchild or adopted child, attains the age of 18 years, then the allowance that the surviving spouse would have received had she or he lived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, the allowance shall be divided among the children in equal amounts. However, the right of any child to share in the allowance shall cease upon the death or marriage of the child or upon the child attaining the age of 18 years.

Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21 years, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) If, upon the death of a retired member, there is no surviving spouse or child entitled to the allowance under this section, and the total retirement allowance income received by the member during his or her lifetime did not exceed his or her accumulated normal contributions, if any, the member's designated beneficiary shall be paid an amount equal to the excess of his or her accumulated normal contributions over his or her total retirement allowance income.

(c) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved

by the board, upon the advice of the actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

(d) Designations pursuant to subdivision (c) shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

(Added by Stats. 1984, Ch. 968, Sec.1, Effective September 10, 1984)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 6)

§31486.7. Death benefits; death of member before retirement while in service (Santa Barbara)

Notwithstanding any other provisions, upon the death of a member before retirement while in service, the designated beneficiary shall receive a death benefit equal to one month's final compensation as defined in subdivision (d) of Section 31486.1 for each year of service completed up to a maximum of six months.

(Added by Stats. 1984, Ch. 968, Sec. 1, Effective September 10, 1984)

§31486.8. Employment subsequent to effective date of article; certification of election of plan (Santa Barbara)

Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until that person certifies to the board an election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting the election.

(Added by Stats. 1984, Ch. 968, Sec.1, Effective September 10, 1984)

§31486.9. Transfer to Plan 2 by general members (Santa Barbara)

(a) General members may, within 180 days of the effective date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. The transfer is voluntary and shall be irrevocable.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, a transferring member may elect to receive credit and a retirement benefit as determined by the former retirement system for public service credit received by leaving contributions on deposit or a refund of contributions and relinquish public service credit.

(Added by Stats. 1984, Ch. 968, Sec. 1, Effective September 10, 1984)

§31486.10. Election to transfer to contributory retirement plan (Santa Barbara)

A member upon becoming vested under this article may elect to terminate and defer accrued benefits for the purpose of future service retirement benefits only, and enter membership of the contributory retirement provisions in effect for new members at the time of transfer. Notwithstanding any other provisions, the rate of contributions shall be based on age nearest birthday at the time of election to transfer.

(Added by Stats. 1984, Ch. 968, Sec. 1, Effective September 10, 1984)

§31486.11. Employer contribution (Santa Barbara)

Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

(Added by Stats. 1984, Ch. 968, Sec. 1, Effective September 10, 1984)

§31486.12. Severability (Santa Barbara)

If any provision of this article, or the application thereof, to any person or circumstances, is held invalid, the invalidity shall not affect other provisions or application of the article which can be given effect without the invalid provisions or application and, to this end the provisions of this article are severable.

(Added by Stats. 1984. Ch. 968, Sec. 1, Effective September 10, 1984)

Article 1.5

Alternative Plan for Counties with Populations in Excess of Six Million (Los Angeles)

(Article 1.5 added by Stats. 1981, Ch. 910, Sec. 1, Effective September 28, 1981. Applicable as prescribed by Section 31487)

§31487. Designation as Retirement Plan E; application of article; purpose; application of other laws (Los Angeles)

(a) The retirement plan created by this article shall be known as Retirement Plan E.

(b) This article shall be applicable in the retirement system of any county with a population in excess of six million, if the board of supervisors executes a memorandum of understanding with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide an optional, noncontributory retirement for general members as an alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and who elect the plan created by this article and (2) existing general members who transfer to the plan herein created, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided below, the provisions contained in this chapter shall apply:

(1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.

(2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.

(3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.

(4) Article 12 (commencing with Section 31780) of this chapter shall not be applicable.

(5) Article 16.5 (commencing with Section 31870) of this chapter shall not be applicable.

(g) Article 15 (commencing with Section 31830) dealing with reciprocal benefits shall be applicable, excluding those provisions dealing with disability retirement, death benefits, and the requirement relating to the deposit of accumulated member contributions.

(h) Any amendments to or modifications of this chapter subsequent to the effective date of this article shall not affect the provisions of this article unless mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of

supervisors.

(i) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each such section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually agreed between the employer and its employee representatives.

(Added by Stats. 1981, Ch. 910, Sec. 1, Effective September 28, 1981)

§31488. Definitions (Los Angeles)

Unless the context otherwise requires, the definitions contained in this section, govern the construction of this article.

(a) As used in subdivisions (f) and (g) of Section 31491, subdivisions (b) and (c) of Section 31492, and Section 31495, "board" means the board of investments. In all other cases, "board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employees are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the time an application for retirement is filed or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) "Member" or "general member" means an employee hired on a monthly permanent basis of at least three-quarter time, as defined by the employer, except an employee eligible for safety membership.

(f) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the age at which full retirement benefits are available under the federal system. This age is deemed to be age 65 until June 30, 1983.

(g) "Service" means the period of uninterrupted employment of a member and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a disability plan provided by the employer.

Except as otherwise herein provided, a member shall not be credited with service for any payroll period in which no compensation is received by the member. Unless otherwise provided, service shall not include military service or public service other than service with the employer.

(Added by Stats. 1981, Ch. 910, Sec. 1, Effective September 28, 1981)

(Amended by Stats. 2010, Ch. 86 (AB 1902), Sec. 1)

§31489. Contributions; none by general members; transferees; refunds; interest (Los Angeles)

(a) Except as otherwise provided in Section 31490.5 or 31490.6, there shall be no general members' contributions under the plan created by this article.

(b) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. A refund under this section shall be payable to the member.

(Added by Stats. 1981, Ch. 910, Sec. 1, Effective September 28, 1981)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 7)

(Amended by Stats. 2006, Ch. 117 (AB 2240), Sec. 5)

§31490. Credit for prior public service; absence from work or termination of employment; effect on continuity of service (Los Angeles)

(a) Except as provided in Sections 31490.5 and 31494, and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and shall not receive credit for that prior public service.

(b) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(c) For the purposes of subdivision (b) of Section 31491, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee receives any benefit that has been approved by the employer, shall not be considered an interruption of service. However, a payroll period in which no compensation is received by a member shall not be considered as service in calculating the benefits otherwise provided under this article.

(Added by Stats. 1981, Ch. 910, Sec. 1, Effective September 28, 1981)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 8)

(Amended by Stats. 2010, Ch. 86 (AB 1902), Sec. 2)

§31490.5. (Operative date contingent) Contributions; Service credit

(a) An active member governed by the provisions of this article may elect, by written notice filed with the board, to make contributions and receive credit under this plan for service for which he or she would not otherwise be entitled to receive credit pursuant to this article.

(b) Any member who elects to receive service credit pursuant to this section shall have the same purchase rights and shall contribute to the retirement fund the amount that a member in the contributory plan wishing to purchase the same service would have to contribute, based on the rates applicable to a member of the contributory plan with the same date of entry into membership. Payment shall be made by lump-sum payment or by installment payments over a period not to exceed 10 years, prior to the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.8.

(c) No member may receive any service credit under this section for which he or she has not completed payment pursuant to subdivision (b) before the effective date of his or her retirement or, if applicable, before the date provided in Section 31485.8. Subject to the limitations of federal law, a member who has elected to make payments in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(d) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(e) As used in this section, the "contributory plan" means that contributory plan otherwise available to new members of the system on the election date.

(f) This section is not operative until the board of supervisors elects, by resolution

adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2004, Ch. 533 (AB 2234), Sec. 9)

(Amended by Stats. 2006, Ch. 369 (SB 777), Sec. 3)

§31490.6. Election to make contributions and receive additional retirement credit; use of additional retirement credit; additional payments and contributions; operation and application of section

(a) An active member may elect, by written notice filed with the board, to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service retirement or for purposes of establishing eligibility for benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) A member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for additional retirement credit that he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.8. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative until the board of supervisors, by resolution adopted by majority vote, makes this section operative in the county.

(h) Pursuant to Section 7522.46, this section shall apply only to an application to purchase additional retirement credit that was received by the retirement system prior to January 1, 2013, that is subsequently approved by the system.

(Added by Stats. 2006, Ch. 117 (AB 2240), Sec. 6)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 13)

§31490.7. Death of active member of retirement plan established by this article; contributions paid to beneficiaries

Upon the death of an active or former member of the plan established by this article, an amount equal to the accumulated contributions made by the member pursuant to this article, with interest on that amount, shall be paid to the member's beneficiaries.

(Added by Stats. 2008, Ch. 72 (AB 2041), Sec. 2)

§31491. Retirement; time of vesting; eligibility; application; benefits (Los Angeles)

(a) Retirement of a member or former member who has met the requirements for age

and service shall be made by the board, at which time the member or former member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the plan created by this article.

(c) Any vested member or vested former member who has attained the age of 65 years may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date.

(d) Any vested member or vested former member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

In no event shall the normal retirement pension, when added to the estimated primary insurance amount, exceed 70 percent of the member's final compensation unless the years of service to which the member is entitled to be credited at retirement exceeds 35, in which case the normal retirement pension, when added to the estimated primary insurance amount, shall not exceed 80 percent of the member's final compensation.

(f) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement, in the following table:

Age	**ERA Factor**
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61
61	.67
62	.74
63	.82
64	.90

The ERA factors set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

(g) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age and salary as of the date of retirement or the date of termination of a vested member, whichever is applicable, provided that:

(1) An employee's prior career earnings shall be assumed to have been subject to the federal system and to have increased on a year-to-year basis at a rate equivalent to the rate of

increase in the average per worker total wages reported by the Social Security Administration, and

(2) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (i) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, whichever is applicable, and (ii) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (iii) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(h) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(i) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31492.

(j) Notwithstanding subdivision (e) of Section 31491, any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(Added by Stats. 1981, Ch. 910, Sec. 1, Effective September 28, 1981)

§31491.1. Adjustment of member's retirement benefit according to member's actual primary insurance amount (Los Angeles)

(a) Notwithstanding Section 31491, any retired member receiving a retirement pension may present evidence in the form required by the board of the retired member's actual primary insurance amount. For the purposes of this section, the actual primary insurance amount shall be the amount being paid under the federal system. Following receipt of that evidence, the board shall adjust the retired member's pension to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual insurance amount.

(b) The adjustment calculated in subdivision (a) shall be applied to the retired member's pension beginning in the month upon which the retired member presents evidence required by the board.

(c) This section shall not be operative in any county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable.

(Added by Stats. 2001, Ch. 31 (AB 1214), Sec. 1)

§31491.2. Adjustment of member's retirement benefit according to member's federal estimated primary insurance amount (Los Angeles)

(a) Notwithstanding Section 31491, any retired member receiving a retirement pension may present evidence in the form required by the board of the retired member's federal estimated primary insurance amount provided that the retired member is not receiving a

federal primary insurance amount. For the purposes of this section, the federal estimated primary insurance amount shall be the amount payable under the federal system as of the retired member's normal federal retirement age. Should the federal estimated primary insurance amount equal zero, the retired member shall not have his or her pension benefit reduced for an estimated primary insurance amount as required in subdivision (e) of Section 31491.

(b) Following receipt of that evidence, the board shall adjust the retired member's pension to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount calculated in Section 31491 equaled zero.

(c) The adjustment calculated in subdivision (a) shall be applied to the retired member's pension beginning in the month upon which the retired member presents evidence required by the board.

(d) Notwithstanding subdivision (a), upon attaining federal retirement age, the retired member shall submit any evidence as may be required by the board of the retired members' federal estimated or actual primary insurance amount. Following receipt of that evidence, the board shall adjust the retired member's pension in accordance with subdivision (j) of Section 31491.

(e) This section shall not be operative in any county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable.

(Added by Stats. 2001, Ch. 31 (AB 1214), Sec. 2)

§31491.3. Early retirement pension; amount; members who have and have not attained age of 62 years; application and operative effect (Los Angeles)

(a) Notwithstanding subdivision (f) of Section 31491, for those members retiring on or after the operative date of this section, the early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount that is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement, in the following table:

Age	ERA Factor
55	.3748
56	.4109
57	.4511
58	.4957
59	.5454
60	.6009
61	.6631
62	.7328
63	.8113
64	.8998

(b) For those members retiring on or after the operative date of this section, paragraph (2) of subdivision (g) of Section 31491 shall not apply, but with regard to those members who have not attained the age of 62 years as of the date of retirement (1) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of employment of a vested member, whichever is applicable, until the member

attains the age of 62 years, and (2) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of employment of a vested member, whichever is applicable, until the member attains the age of 62 years, and (3) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(c) Notwithstanding subdivision (e) or subdivision (j) of Section 31491, any member who retires on or after the operative date of this section, and after attaining the age of 62 years may, as soon as possible but not later than six months following retirement, present evidence required by the board demonstrating the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount actually payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work, or the estimate of that amount as set forth on a current earnings and benefits estimate statement provided by the Social Security Administration. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(d) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 2, Effective October 13, 2001, as an urgency statute)

§31492. Death benefits; election for lower pension to obtain different survivor allowance (Los Angeles)

(a)(1) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b), (c) or (d), shall be continued during and throughout the life of his or her surviving spouse, if she or he was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including every stepchild or adopted child, attains the age of 18 years, then the allowance that the spouse would have received had she or he survived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, it shall be divided among the children in equal shares. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or upon attaining the age of 18 years.

(2) Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21 years, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) If, upon the death of a retired member, there is no surviving spouse or child entitled to the allowance under this section, and the total retirement allowance income received by the member during his or her lifetime did not equal or exceed his or her accumulated normal contributions, if any, the member's designated beneficiary shall be paid an amount equal to the excess of his or her accumulated normal contributions over his or her total retirement allowance income.

(c)(1) A vested member, or vested former member, in lieu of the retirement allowance

and survivor allowance, if any, otherwise payable to a retired member and his or her surviving spouse pursuant to this article, may elect to have the actuarial equivalent of these benefits, as of the date of retirement, applied to a lesser amount payable throughout the retired member's life and to an increased survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to his or her surviving spouse, if he or she was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including every stepchild and adopted child, attains the age of 18 years, then the increased survivor allowance that the spouse would have received had he or she survived shall be paid to the deceased retired member's child or children under the age of 18 years. If the increased survivor allowance is to be paid to surviving children, it shall be divided among the children in equal shares. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or attaining the age of 18 years.

(2) Notwithstanding any other provision of this subdivision, the increased allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21 years if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(3) The election pursuant to this subdivision may not, in the opinion of the board and the actuary, place any additional burden upon the retirement system. If a member makes the election, the member's normal or early retirement benefit shall be reduced by the additional actuarial cost to the system resulting from the increased survivor allowance. The actuarial cost of the survivor allowance payable under this subdivision shall be calculated taking into account the life expectancy of the member's surviving spouse.

(4) This subdivision is not operative unless the county board of supervisors, by resolution adopted by a majority vote, makes this subdivision operative in the county. This subdivision applies only to members who retire after the operative date of this subdivision.

(d) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone and the survivor allowance, if any, that would be payable under subdivision (a) or (c), may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and to a survivor allowance as approved by the board, upon the advice of the actuary, that, upon the death of the retired member, shall continue throughout the life of and be paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement. The member's normal or early retirement benefit shall be reduced by the actuarial cost of the survivor allowance elected.

(Added by Stats. 1981, Ch. 910, Sec. 1, Effective September 28, 1981)

(Amended by Stats. 2004, Ch. 152 (SB 1260), Sec. 1)

§31492.1. Monthly survivor allowance; amount for members retiring on or after operative date of section; application and operative effect (Los Angeles)

(a) Notwithstanding the provisions of Section 31492, each monthly survivor allowance paid pursuant to subdivision (a) of Section 31492 on account of a member who retires on or after the operative date of this section shall be equal to 55 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (c) or (d) of that section.

(b) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 3, Effective October 13, 2001, as an urgency statute)

(Amended by Stats. 2004, Ch. 152 (SB 1260), Sec. 2)

(Amended by Stats. 2005, Ch. 22 (SB 1108), Sec. 89)

§31492.2. Monthly survivor allowance; amount for members retiring before operative date of section; application and operative effect (Los Angeles)

(a) Notwithstanding the provisions of Section 31492, each monthly survivor allowance paid on or after the operative date of this section pursuant to subdivision (a) of Section 31492 on account of a member who retires before the operative date of this section shall be equal to 55 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b) of that section.

(b) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 4, Effective October 13, 2001, as an urgency statute)

§31493. Employment subsequent to effective date of article; certification of election of plan (Los Angeles)

(a) Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until he or she certifies to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting his or her election.

(b) This section shall be applicable to persons who are eligible for membership and are employed prior to January 1, 1991.

(Amended by Stats. 1990, Ch. 218, Sec. 1)

§31493.5. Certification of election to be covered; provision of retirement plan materials (Los Angeles)

(a) Any person employed who qualifies as a member shall certify to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members as of the date of employment. Any person who dies prior to certifying his or her election or who fails to certify his or her election within the period set forth in subdivision (b) shall, as of the date of death or the day immediately following the last day to certify his or her election, be deemed to have elected to be covered by the retirement plan established by this article.

(b) The election required to be made by subdivision (a) shall be certified to the board:

(1) Within 30 days of employment if written disclosure materials are provided by the employer pursuant to subdivision (c) within 14 days of employment, or

(2) Within 30 days of the receipt of written disclosure materials provided by the employer if the employer fails to provide written disclosure materials within 14 days of employment as required by subdivision (c).

(c) The employer shall, within 14 days of the date of employment, provide to each person who qualifies as a member, written disclosure materials of the elements of each of the

available retirement plans.

(d) This section shall be applicable to persons eligible for general membership in Plans D and E who become employed on or after January 1, 1991, and prior to January 1, 1992, and to persons who were employed prior to January 1, 1991, who first became eligible for membership on or after January 1, 1991, and before January 1, 1992.

(Amended by Stats. 1991, Ch. 1108, Sec. 4, Effective October 14, 1991)

§31493.6. Persons qualifying as members but not electing to be covered by available retirement provisions and benefits; death prior to certifying election; provision of retirement plan materials; elections to be covered by other retirement plans; application of section (Los Angeles)

(a) Any person who qualifies as a member, and who has not elected to be covered by the retirement provisions and benefits available to members, shall become a member of the plan established by this article as of the first day of the month following the date of employment or date of eligibility for membership. Any person who dies prior to certifying his or her election shall be deemed to have elected to be covered by the retirement plan established by this article.

(b) The employer shall, within 14 days of the date of employment or eligibility for membership, provide to each person who qualifies as a member, written disclosure materials of the elements of each of the available retirement plans.

(c) Any person who has been enrolled in the plan provided for in this article pursuant to subdivision (a) may elect to be covered by any other retirement plan to which he or she is otherwise eligible, provided that the election is made in writing and filed with the board within 60 days from his or her beginning date of employment or eligibility for membership, or within 45 days after receipt from the employer of the materials required by subdivision (b), whichever is later. Any person who makes the election shall be deemed to be a member of the elected plan as of the first day of the month following the date of employment or eligibility, and the county auditor shall make appropriate deductions from the member's future salary warrant to cover the member's contributions applicable to the period that the member was deemed to be included in the plan covered by this article.

(d) This section shall be applicable to persons eligible for general membership who become employed on or after January 1, 1992, and to persons who were employed prior to January 1, 1992, but who did not become eligible for membership until January 1, 1992, or later.

(Added by Stats. 1991, Ch. 1108, Sec. 5, Effective October 14, 1991)

§31494. Transfer to Plan E by general members; operative dates of section (Los Angeles)

(a) General members may elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. That transfer is voluntary and shall be irrevocable.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, transferring members shall receive credit for public service performed prior to the transfer, including service with the employer, military service, and other public service to which the member would otherwise be eligible under this chapter, except that member contributions shall not be collected.

(d) This section shall be operative at such time or times as may be mutually agreed to in memoranda of understanding executed by the employer and employee representatives if the board of supervisors adopts, by majority vote, a resolution declaring that the section shall be

operative.

(e) This section shall be superseded by Section 31494.2 in any county when Section 31494.2 becomes operative in the county.

(Amended by Stats. 1984, Ch. 58, Sec. 1, Effective March 28, 1984)

(Amended by Stats. 2001, Ch. 778 (AB 399), Sec. 5, Effective October 13, 2001, as an urgency statute)

§31494.1. Transfer of general members in noncontributory plan to contributory plan; retirement benefits; retirement service credit; contributions; rights to benefits; payment of contributions after death; operative date

(a) In accordance with the provisions of this section, general members, whose retirement benefits are governed by the noncontributory plan created by this article, may transfer to the contributory plan. Contributory plan shall mean Retirement Plan D. Transfer may be made by election upon written application executed by the member and filed with the board on or before the election date and shall be effective on the transfer date, subject to the terms and conditions set forth in this section. The election date shall be that date identified in the resolution adopted by the board of supervisors declaring this section to be operative. The transfer date shall be that date on which the member completes deposit of all contributions required by Section 31494.3. The election is voluntary and may be revoked upon written notice received by the board prior to the transfer date.

(b) The retirement benefits of members electing to transfer and transferred members shall be governed and defined by this section. In the event of conflict, this section shall supersede and prevail over other provisions, or application of provisions, otherwise contained in this article.

(c) Transferred members relinquish, waive, and forfeit any and all vested or accrued benefits available under any other retirement plan provided to members of the retirement system, and shall be entitled only to the benefits available under the contributory plan.

(d) Transferred members shall receive retirement service credit for that period of service with the employer, for which the members were otherwise eligible to receive credit under the plan created by this article. Transferred members shall also receive retirement service credit for that period of service for which the member made contributions pursuant to Section 31490.5.

(e) Transferred members may receive retirement service credit for service other than that with the employer, for which the members were credited or were eligible to receive credit under the plan created by this article, by written application executed by the member and filed with the board on or before the election date.

(f) The employer, the members who have elected to transfer, and transferred members shall make contributions to the retirement fund in accordance with the rates, and in the same manner, as prescribed under the contributory plan. The monthly contributions shall commence for the month next following the transfer date or that date 120 days after the election date, whichever is earlier.

(g) For purposes of calculating member contributions required under Section 31494.3, the entry age of a transferred member shall be that entry age as reflected in the retirement records maintained on behalf of the board.

(h) Failure of a member to deposit the contributions at the time and in the manner required by subdivision (a) of Section 31494.3 shall result in the cancellation of his or her election to transfer.

(i) Failure of a member to deposit the contributions at the time and in the manner required by subdivision (b) or (c) of Section 31494.3 shall result in the cancellation and forfeiture of his or her right to elect credit for other service under subdivision (e).

(j) Prior to the transfer date, the rights to retirement, disability, survivors, and death benefits of members who have made the election to transfer shall remain the same as defined and governed by this article. If those members die, terminate service, or make application for retirement prior to the transfer date, or fail to deposit all required contributions as required by Section 31494.3, all member contributions and regular interest shall be refunded to the member or member's survivor.

(k) Notwithstanding any other provision contained in this section or Section 31494.3, in the event of the death of a member who has elected to transfer prior to the transfer date, the spouse of the member, or the minor children of the member if no spouse survives the member, may elect to pay the balance of contributions required by Section 31494.3, and if the contributions are deposited in the retirement fund within 120 days after the death of the member, the spouse of the member, or if no spouse survives the member, the minor children of the member, shall be entitled to rights and benefits as if the deceased member had deposited all contributions required by Section 31494.3.

(l) Prior to the transfer date, the rights to retirement, disability, survivors, and death benefits of members who have made the election to transfer shall remain the same as defined and governed by this article. If those members die, terminate service, or make application for retirement prior to the transfer date, all member contributions and regular interest shall be refunded to the member or the member's survivor.

(m) This section shall be operative at such time or times as may be mutually agreed to in memoranda of understanding executed by the employer and employee representatives if the board of supervisors adopts, by majority vote, a resolution declaring that the section shall be operative.

(Added by Stats. 1984, Ch. 58, Sec. 2, Effective March 28, 1984)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 10)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 17, Effective October 4, 2013, as an urgency statute)

§31494.2. Members whose benefits are governed by Retirement Plan D; election to change plan membership in Retirement Plan E; terms with respect to retirement, survivors', or other benefits; definitions; application and operative effect (Los Angeles)

(a) A general member whose benefits are governed by Retirement Plan D may, during a period of active employment, elect to change plan membership and become a member, prospectively, in Retirement Plan E. The election shall be made upon written application signed by the member and filed with the board, pursuant to enrollment procedures and during an enrollment period established by the board, which enrollment period shall not occur more frequently than once every three years for that member. The change in plan membership shall be effective as of the transfer date, as defined in subdivision (d). Except as otherwise provided in this section, the rights and obligations of a member who elects to change membership under this section shall be governed by the terms of this article on and after the transfer date. Prior to the transfer date, the rights to retirement, survivors', or other benefits payable to a member and his or her survivors or beneficiaries shall continue to be governed by Retirement Plan D.

(b) Except as otherwise provided in this section, effective as of the transfer date, a member who has transferred to Retirement Plan E pursuant to this section and his or her survivors or beneficiaries shall receive retirement, survivors', and other benefits that shall consist of: (1) the benefits to which they are entitled under the terms of Retirement Plan E, but based on the member's service credited only under that plan, and payable at the time and in the manner provided under Retirement Plan E, and (2) the benefits to which they would have been entitled under the terms of Retirement Plan D had the member remained a

member of Retirement Plan D, but based on the member's service credited only under that plan, and payable at the time and in the manner provided under Retirement Plan D. Except as otherwise provided in this section, the calculation of the member's, survivors', or beneficiaries' benefits under each plan shall be subject to that plan's respective, separate terms, including, but not limited to, the definitions of "final compensation" and provisions establishing cost-of-living adjustments, establishing minimum retirement age and service requirements, and governing integration with federal social security payments. Notwithstanding the foregoing, the aggregate service credited under both retirement plans shall be taken into account for the purpose of determining eligibility for and vesting of benefits under each plan.

(c) Notwithstanding any other provision of Retirement Plan D or Retirement Plan E:

(1) A member who has transferred to Retirement Plan E pursuant to this section may not retire for disability and receive disability retirement benefits under Retirement Plan D.

(2) If a member who has transferred to Retirement Plan E pursuant to this section dies prior to retirement, that member's survivor or beneficiary may not receive survivor or death benefits under Retirement Plan D but shall receive a refund of the member's contributions to Retirement Plan D together with all interest credited thereto.

(d) As used in this section:

(1) "Period of active employment" means a period during which the member is actively performing the duties of a full-time or part-time employee position or is on any authorized paid leave of absence, except a leave of absence during which the member is totally disabled and is receiving, or is eligible to receive, disability benefits, either during or after any elimination or qualifying period, under a disability plan provided by the employer.

(2) "Retirement Plan D" means the contributory retirement plan otherwise available to members of the system between June 1, 1979, and December 31, 2012, inclusive.

(3) "Retirement Plan E" means the noncontributory retirement plan established under this article.

(4) "Transfer date" means the first day of the first month that is at least 30 days after the date that the application is filed with the board to change plan membership under subdivision (a).

(e) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 6; effective October 13, 2001 as an urgency statute)

(Amended by Stats. 2016, Ch. 134 (AB 2376), Sec. 1)

§31494.3. Cost of contributions for members transferring to contributory plan, provision, deposit, amount; members applying for service credit relating to federal and military service; members applying for service credit relating to prior service and public service other than military and federal; operative date (Los Angeles)

(a) Members who have elected to transfer under Section 31494.1 shall be provided within 90 days of the election date the cost of contributions required for that period of all creditable service with the employer prior to the month for which monthly contributions are to commence, as prescribed in subdivision (f) of Section 31494.1, and shall deposit in the retirement fund, the amount hereinafter provided in this subdivision, by lump sum, or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement or, if applicable, the date provided in Section 31485.8, the date of termination, or the date of death. The amount shall equal the sum of the contributions a member would have made

to the retirement fund for that length of time as that for which the member shall receive credit as service, computed in accordance with the rate of contribution applicable to the member under the contributory plan, based upon entry age, and in the same manner as prescribed under the plan as if the plan had been in effect during the entire period of all creditable service, together with regular interest thereon.

(b) All service previously purchased by the member pursuant to Section 31490.5, if any, shall be recalculated in accordance with the rate of contribution applicable to the member under the contributory plan, based upon the entry age, and in the same manner as prescribed under the plan as if the contributory plan had been in effect during the entire period of all creditable service, together with regular interest thereon. All contributions paid by the member pursuant to Section 31490.5, if any, shall be credited toward the amount owed under subdivision (a) and all periods of service credited under the plan created by this article shall be transferred to the contributory plan upon completion of payment of that amount.

(c) Any member who applies for service credit under subdivision (e) of Section 31494.1 relating to federal and military service, shall be provided within 90 days of the election date the cost of contribution required for that service, and shall deposit in the retirement fund the amount hereinafter provided in this subdivision by lump sum, or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement, date of termination, or death. The amount shall equal the sum of twice the contributions the member would have made to the retirement fund for the length of time as that for which the member has elected to receive credit as service, computed by applying the rate of contribution applicable to the member under the contributory plan, based upon entry age, to the monthly compensation first earnable by the member as of the most recent date of entry into the retirement system, multiplied by the number of months for which the member has elected to receive credit, together with regular interest thereon.

(d) Any member who applies for service credit under subdivision (e) of Section 31494.1, relating to prior service as defined in the bylaws of the board, other than qualifying service under Section 31490.5, and public service other than military and federal service, shall be provided within 90 days of the election date the cost of contribution required for that service, and shall deposit in the retirement fund the amount hereinafter provided in this subdivision, by lump sum or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement or, if applicable, prior to the date provided in Section 31485.8, the date of termination, or the date of death. The amount shall equal that sum of contributions the member would have made to the retirement fund for the length of time as that for which the member has elected to receive credit as service, calculated in the same manner as prescribed in the bylaws of the board relating to credit for prior service, except that such contribution shall be computed by applying the rate of contribution applicable to the member under the contributory plan, based upon entry age.

(e) This section shall be operative in a county at such time or times as may be mutually agreed to in memoranda of understanding executed by the employer and employee representatives if the board of supervisors adopts, by majority vote, a resolution declaring that the section shall be operative in the county.

(Amended by Stats. 1991, Ch. 1108, Sec. 6, Effective October 14, 1991)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 11)

(Amended by Stats. 2006, Ch. 369 (SB 777), Sec. 4)

§31494.5. Members whose benefits are governed by Retirement Plan E; election to change plan membership to Retirement Plan D; benefit terms (Los Angeles)

(a) A general member whose benefits are governed by Retirement Plan E may, during a period of active employment, elect to change plan membership and become a member, prospectively, in Retirement Plan D. The election shall be made upon written application signed by the member and filed with the board, pursuant to enrollment procedures and during an enrollment period established by the board, which enrollment period shall not occur more frequently than once every three years for that member. The change in plan membership shall be effective as of the transfer date, as defined in subdivision (g). Except as otherwise provided in this section, the rights and obligations of a member who elects to change membership under this section shall be governed by the terms of Retirement Plan D on and after the transfer date. Prior to the transfer date, the rights to retirement, survivors', or other benefits payable to a member and his or her survivors or beneficiaries shall continue to be governed by Retirement Plan E.

(b) If a member has made the election to change plans under subdivision (a), monthly contributions by the member and the employer under the terms of Retirement Plan D shall commence as of the transfer date. For the purposes of calculating the member's contribution rate under Retirement Plan D, his or her entry age shall be deemed to be his or her age at his or her birthday nearest the transfer date; however, if the member exchanges service credit in accordance with subdivision (c), with regard to contributions made for periods after that exchange, his or her entry age shall be adjusted and deemed to be the member's age at his or her birthday nearest the date on which begins the most recent period of unbroken service credited under Retirement Plan D, taking into account service purchased under subdivision (c). In no event shall the exchange of service under subdivision (c) affect the entry age with respect to, or the cost of, employee contributions made, or service purchased, prior to the exchange.

(c)(1) A general member who has elected to change plans under subdivision (a) also may elect to exchange, at that time or any time thereafter, but prior to the earlier of his or her application for retirement, termination from employment, or death, some portion designated in whole-month increments, or all of the service credited under Retirement Plan E for an equivalent amount of service credited under Retirement Plan D, provided, however, that the member may not exchange less than 12 months' service or, if less, the total service credited under Retirement Plan E. The exchange shall be effective on the date when the member completes the purchase of that service by depositing in the retirement fund, by lump sum or regular monthly installments, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, or both, but in any event prior to the earlier of his or her death or the date that is 120 days after the effective date of his or her retirement, the sum of: (1) the contributions the member would have made to the retirement fund under Retirement Plan D for that length of time for which the member shall receive credit as service under Retirement Plan D, computed in accordance with the rate of contribution applicable to the member under Retirement Plan D, based upon his or her entry age, and in the same manner prescribed under Retirement Plan D as if that plan had been in effect during the period for which the member shall receive service credit, and (2) the regular interest thereon.

(2) For the purposes of this subdivision, a member's entry age shall be deemed to be the member's age at his or her birthday nearest the date on which begins the most recent period of unbroken service credited under Retirement Plan D following completion of the service exchange under this subdivision. A member may receive credit for a period of service under only one plan and in no event shall a member receive credit for the same period of service under both Retirement Plan D and Retirement Plan E.

(3) A member who fails to complete the purchase of service as required under this subdivision shall be treated as completing an exchange of service under Retirement Plan E for an equivalent amount of service under Retirement Plan D only with regard to the service

that actually has been purchased through completed deposit with the retirement fund of the requisite purchase amount, calculated in accordance with this subdivision.

(d) Except as otherwise provided in this section, effective as of the transfer date, a member who has transferred to Retirement Plan D pursuant to this section and his or her survivors or beneficiaries shall receive retirement, disability, survivors', death, or other benefits that shall consist of: (1) the benefits to which they are entitled under the terms of Retirement Plan D, but based on the member's service credited only under that plan, and payable at the time and in the manner provided under Retirement Plan D, and (2) the benefits to which they would have been entitled under the terms of Retirement Plan E had the member remained a member of Retirement Plan E, but based on the member's service credited only under that plan, and payable at the time and in the manner provided under Retirement Plan E. Except as otherwise provided in this section, the calculation of the portion of a member's or beneficiary's benefit that is attributable to each plan is subject to that plan's respective, separate terms, including, but not limited to, the definitions of "final compensation" and provisions establishing cost-of-living adjustments, establishing minimum age and service requirements, and governing integration with federal social security payments. Notwithstanding the foregoing, the aggregate service credited under both Retirement Plan D and Retirement Plan E shall be taken into account for the purpose of determining eligibility for, and vesting of, benefits under each plan.

(e) Notwithstanding any other provision of Retirement Plan D or Retirement Plan E, a member who transfers into Retirement Plan D under this section may retire for service-connected or nonservice-connected disability and receive disability benefits under Retirement Plan D only if he or she has either (1) completed two continuous years of active service after his or her most recent transfer date, or (2) earned five years of retirement service credit under Retirement Plan D after his or her most recent transfer date. Notwithstanding any other provision to the contrary, a member who becomes disabled and does not meet either of these conditions (1) may apply for and receive only a deferred or service retirement allowance, or (2) may elect to transfer prospectively back to Retirement Plan E, and for the purposes of calculating his or her retirement benefits under this section, shall in lieu of credit under Retirement Plan D be credited with service under Retirement Plan E as provided under subdivision (g) of Section 31488 during any period he or she is totally disabled and is receiving, or eligible to receive, disability benefits, either during or after any elimination or qualifying period, under a disability plan provided by the employer up to the earlier of the date he or she retires or no longer qualifies for disability benefits. If a member dies before he or she is eligible to retire and before completing either two continuous years of active service after the transfer date into Retirement Plan D or after earning five years of retirement service credit under Retirement Plan D after that transfer date, that member's beneficiary shall not be entitled to the survivor allowance under Section 31781.1 or 31781.12, if operative.

(f) Notwithstanding any other provisions of Retirement Plan D or Retirement Plan E, a member who has transferred to Retirement Plan D pursuant to this section and who retires for disability when eligible under this section and Retirement Plan D, may not also retire for service and receive service retirement benefits under Retirement Plan E. However, for the purpose of calculating disability benefits under Retirement Plan D, the "sum to which he or she would be entitled as service retirement" or his or her "service retirement allowance," as those terms are used in Sections 31726, 31726.5, and 31727.4, shall consist of the blended benefit to which the member would be entitled under subdivision (d) if he or she retired for service, not just the service retirement benefit to which he or she would be entitled under Retirement Plan D.

(g) As used in this section:

(1) "Active service" means time spent on active, on-the-job performance of the duties of a full-time or part-time position and on any authorized paid leaves of absence; provided,

however, that any authorized paid leave of absence or part-time service shall not constitute active service if the leave of absence or part-time service is necessitated by a preexisting disability, injury, or disease. The board of retirement shall determine whether or not a leave of absence or part-time service is necessitated by a preexisting disability, injury, or disease, and thus excluded from the member's active service, based upon evidence presented by the employer and the member upon request by the board.

(2) "Entry age" means the age used for calculating the normal rate of contribution to Retirement Plan D with respect to a member who has transferred membership to Retirement Plan D under this section.

(3) "Period of active employment" means a period during which the member is actively performing the duties of a full-time or part-time employee position or is on any authorized paid leave of absence, except a leave of absence during which the member is totally disabled and is receiving, or is eligible to receive, disability benefits, either during or after any elimination or qualifying period, under a disability plan provided by the employer.

(4) "Retirement Plan D" means the contributory retirement plan otherwise available to members of the system between June 1, 1979, and December 31, 2012, inclusive.

(5) "Retirement Plan E" means the noncontributory retirement plan established under this article.

(6) "Transfer date" means the first day of the first month that is at least 30 days after the date that the application is filed with the board to change plan membership under subdivision (a).

(h) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 7; effective October 13, 2001 as an urgency statute)

(Amended by Stats. 2010, Ch. 86 (AB 1902), Sec. 3)

(Amended by Stats. 2016, Ch. 134 (AB 2376), Sec. 2)

§31495. Employer contribution (Los Angeles)

Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

(Added by Stats. 1981, Ch. 910, Sec. 1, Effective September 28, 1981)

§31495.5. Retirement or death allowances payable on or after operative date of section, to or on account of any member of Retirement Plan E who retires or dies or who has retired or died, as of April 1 each year; increase or decrease by amount equal to member's automatic COLA and as calculated by board of retirement before April 1 of each year; election to purchase elective COLA; amount of required contributions; allowances with respect to death and disability; definitions; application and operative effect (Los Angeles)

(a) Notwithstanding any other provision of this article, every retirement allowance or death allowance payable, on or after the operative date of this section, to or on account of any member of Retirement Plan E who retires or dies or who has retired or died shall, as of April 1 each year, be increased or decreased by an amount equal to that member's automatic COLA, as defined in subdivision (f) and as calculated by the board of retirement before April 1 of each year. No decrease in the cost of living shall reduce an allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance or the operative date of this section, whichever is later.

(b) A Retirement Plan E member may elect to purchase an elective COLA, as defined in

subdivision (f), with regard to some portion (designated in whole-month increments) or all of his or her months of Retirement Plan E service earned prior to the operative date of this section. The member may also elect to purchase an elective COLA, as defined in subdivision (f), with regard to some portion (designated in whole-month increments) or all of his or her months of Retirement Plan E service purchased pursuant to Section 31490.5, including service rendered after June 4, 2002, but prior to becoming a member of this system.

(c) The election shall be made upon written application signed by the member and filed with the board pursuant to election procedures and during election periods established by the board. The purchase of the elective COLA shall be effective only when the member has paid contributions necessary to purchase the designated amount of service for which he or she shall receive the elective COLA. The amount of required contributions shall be determined by the board, subject to the following:

(1) The cost of purchasing service for elective COLA purposes shall be determined by the board of retirement such that no elective COLA liability shall be borne by the county and no diminution in the funding ratio of the system shall result.

(2) The cost charged to the member for purchasing the elective COLA service shall be based upon the assumption that the member retires at the age of 65 years.

(3) Members may pay for the elective COLA by lump-sum payment or monthly installments over a period to be determined by a resolution adopted by a majority vote of the board of retirement, or both, but in any event prior to the earlier of his or her death or the date that is 120 days after the effective date of his or her retirement.

(4) If a member fails to timely complete the purchase of his or her elective COLA, he or she shall receive an elective COLA calculated only with regard to that amount of service actually purchased.

(5) If a Retirement Plan E member dies prior to retirement, any contributions made toward the purchase of an elective COLA, and all interest credited thereto, shall be refunded to the deceased member's surviving spouse or, if there is no surviving spouse, to the deceased member's surviving child or children under the age of 18 years, divided among those children in equal amounts, or, if there is no surviving spouse or surviving child or children under the age of 18 years, to the deceased member's estate.

(d) If a Retirement Plan E member elects and purchases an elective COLA, then, notwithstanding any other provision of this article, every Retirement Plan E allowance or postretirement death allowance payable on and after the operative date of this section, to or on account of that member who retires or dies or who has retired or died shall, as of April 1 of each year, be increased or decreased by an amount equal to that member's elective COLA as calculated by the board of retirement before April 1 of each year. No decrease in the cost of living shall reduce an allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance or this provision, whichever is later.

Notwithstanding any other provisions of this section, if a member retires before attaining the age of 65 years, his or her elective COLA shall be actuarially reduced to reflect that earlier retirement age unless, within 120 days after his or her retirement, he or she contributes by lump-sum the amount necessary to complete the purchase of his or her elective COLA as determined by the board. If, upon a member's retirement, the board of retirement determines that a member has paid more contributions than necessary to purchase his or her elective COLA in accordance with subdivision (b), the member shall receive a refund of those excess contributions and all interest credited thereto. Upon retirement or termination of employment, but before he or she begins receiving his or her elective COLA, a member may revoke his or her election to purchase an elective COLA and receive a refund of any contributions made toward the purchase of the elective COLA and all interest credited thereto.

(e) If a Retirement Plan E member or former member is totally disabled, begins receiving disability benefits, other than state-mandated benefits, under a disability plan provided by

the employer on or after the operative date of this section, and, on or after that date, his or her employment terminates, then, for purposes of calculating the member's or former member's final compensation, his or her predisability compensation, as previously adjusted in accordance with this subdivision and paragraph (5) of subdivision (f), shall, as of April 1 of each year after his or her employment terminates and during a period for which he or she both remains totally disabled and earns "service" within the meaning of subdivision (g) of Section 31488, be increased or decreased by an amount equal to that member's or former member's predisability compensation adjustment as calculated by the board of retirement before April 1 of each year.

(f) As used in this section:

(1) "Automatic COLA" means, with respect to any member of Retirement Plan E, an amount equal to the allowance then being received (including any automatic or elective COLAs previously received), multiplied by a percentage (rounded to the nearest one-tenth of 1 percent) derived by taking the number of months of service the member earned on and after the operative date of this section, dividing by the member's total months of service, and multiplying by a percentage equal to the lesser of 2 percent or the percentage found by the board of retirement to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1 of each year as shown by the then current CPI, as adjusted for the amount applied from a prior year. For purposes of applying this formula, the amount of any annual cost-of-living increase under the CPI in excess of the 2 percent maximum shall be accumulated and applied in future years in which the annual cost-of-living increase under the CPI is less than the 2 percent maximum.

(2) "CPI" means the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated.

(3) "Elective COLA" means, with respect to any member of Retirement Plan E, an amount equal to the allowance then being received (including any automatic or elective COLAs previously received), multiplied by a percentage (rounded to the nearest one-tenth of 1 percent) derived by taking the number of months of service the member purchased in accordance with subdivision (b), dividing by the member's total months of service, and multiplying by a percentage equal to the lesser of 2 percent or the percentage found by the board of retirement to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1 of each year as shown by the then current CPI, as adjusted for the amount applied from a prior year. For purposes of applying this formula, the amount of any annual cost-of-living increase under the CPI in excess of the 2 percent maximum shall be accumulated and applied in future years in which the annual cost-of-living increase under the CPI is less than the 2 percent maximum.

(4) "Predisability compensation" means a member's last 12 months of compensation earnable preceding the date his or her employment terminates while he or she is receiving disability benefits, other than state-mandated benefits, under a disability plan provided by the employer because he or she is totally disabled. The employer shall provide the board of retirement with the information necessary for a member's predisability compensation to be determined.

(5) "Predisability compensation adjustment" means, with respect to any member or former member of Retirement Plan E qualifying under subdivision (e), an amount equal to that member's or former member's predisability compensation as previously adjusted under this section, multiplied by a percentage equal to the lesser of 2 percent or the percentage found by the board of retirement to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1, of each year as shown by the then current CPI, as adjusted for the amount applied from a prior year. For the purpose of applying this formula, the amount of any annual cost-of-living increase under the CPI in excess of the 2 percent maximum shall be accumulated and applied in future years in which the

annual cost-of-living increase under the CPI is less than the 2 percent maximum.

(g) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 12)

§31495.6. Use of current, forfeited, and vested membership periods in determining age of entry; applicability (Los Angeles)

A member may use current, forfeited, and vested membership periods earned under this chapter when meeting the reciprocity requirements for purposes of determining age of entry, as defined in Sections 31833 and 31833.1. This section shall not apply to members who are retired from this system.

(Added by Stats. 2010, Ch. 86 (AB 1902), Sec. 4)

§31495.7. Application of §31835.1; existing law

Section 31835.1 applies to a member eligible to retire at 55 years of age pursuant to Section 31491. This section is declaratory of existing law.

(Added by Stats. 2016, Ch. 134 (AB 2376), Sec. 3)

Article 1.6

Alternative Plan for Counties of the 10th Class (San Mateo)

(Article 1.6 added by Stats. 1982, Ch. 1381, Sec. 1, Applicable as prescribed by Section 31496)

§31496. Designation as Retirement Plan 3; application of article; purpose; application of other laws (San Mateo)

(a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 10th class, if the board of supervisors executes a memorandum of understanding with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide an optional, noncontributory retirement plan for general members as an alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and who elect the plan created by this article and (2) existing general members who transfer to the plan herein created, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided below, the provisions contained in this chapter shall apply:

(1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.

(2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.

(3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.

(4) Article 12 (commencing with section 31780) of this chapter shall not be applicable.

(5) Article 16.5 (commencing with Section 31870) of this chapter shall not be applicable.

(g) Article 15 (commencing with Section 31830) shall only be applicable for service retirement. Those provisions of Article 15 dealing with disability retirement, death benefits,

and the requirement relating to the deposit of accumulated member contributions shall not be applicable.

(h) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each such section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually agreed between the employer and its employee representatives.

(i) Any amendments to or modifications of this chapter subsequent to the effective date of this article shall not affect the provisions of this article unless mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31496.3. Definitions (San Mateo)

Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employees are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the time an application for retirement is filed or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety membership.

(f) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the age of 65.

(g) "Service" means the period of uninterrupted employment of a member and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a disability plan provided by the employer.

Except as provided, a member may not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service may not include military service or public service other than service with the employer.

Notwithstanding any other provision of this chapter, a member who has elected or transferred to the plan created by this article and who terminates for any reason and is later reemployed shall receive Plan 3 credit for his or her service rendered prior to termination.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

(Amended by Stats. 1983, Ch. 190, Sec. 1, Effective July 11, 1983)

(Amended by Stats. 2003, Ch. 96 (AB 398), Sec. 2)

§31496.7. Contributions; none by general members; transferees; refunds; interest (San Mateo)

(a) There shall be no general members' contributions under the plan created by this article.

(b) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. Any refund under this section shall be payable to the member.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31497. Credit for prior public service; absence from work or termination of employment; effect on continuity of service (San Mateo)

(a) Except as provided in Section 31498.3 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and shall not receive credit for that prior public service.

(b) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(c) For the purposes of subdivision (b) of Section 31497.3, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee receives any benefit which has been approved by the employer, shall not be considered an interruption of service. However, the period of time of unpaid leave shall not be considered as service in calculating the benefits otherwise provided under this article.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31497.3. Retirement; time of vesting; eligibility; application; benefits (San Mateo)

(a) Retirement of a member or former member who has met the requirements for age and service shall be made by the board, at which time the member or former member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the plan created by this article.

(c) Any vested member or vested former member who has attained the age of 65 years may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date.

(d) Any vested member or vested former member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

In no event shall the normal retirement pension, when added to the estimated primary insurance amount, exceed 70 percent of the member's final compensation unless the years of service to which the member is entitled to be credited at retirement exceeds 35, in which case

the normal retirement pension, when added to the estimated primary insurance amount, shall not exceed 80 percent of the member's final compensation.

(f) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement, in the following table:

Age	ERA Factor
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61
61	.67
62	.74
63	.82
64	.90

The ERA factors set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

(g) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age and salary as of the date of retirement or the date of termination of a vested member, whichever is applicable, provided that:

(1) An employee's prior career earnings shall be assumed to have been subject to the federal system and to have increased on a year-to-year basis at a rate equivalent to the rate of increase in the average per worker total wages reported by the Social Security Administration, and

(2) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (i) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, whichever is applicable, and (ii) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (iii) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(h) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(i) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31497.7.

(j) Notwithstanding subdivision (e) of Section 31497.3, any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement

without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31497.7. Death benefits; election for lower pension to obtain different survivor allowance (San Mateo)

(a) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b), shall be continued during and throughout the life of his or her surviving spouse, if he or she was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or he or she dies before every child of the deceased retired member, including stepchild or adopted child, attains the age of 18 years, then the allowance which the surviving spouse would have received had she or he lived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, the allowance shall be divided among the children in equal amounts. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or upon attaining the age of 18 years.

Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

(c) Designations pursuant to subdivision (b) shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31498. Employment subsequent to effective date of article; certification; automatic coverage (San Mateo)

(a) Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until he or she certifies to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting his or her election.

(b) If the person does not elect to be covered by either Retirement Plan 2 or Retirement Plan 3 within 60 days of employment, the person shall automatically be covered by Retirement Plan 2 and no certification shall be required.

(Amended by Stats. 1992, Ch. 707, Sec. 4, Effective September 15, 1992)

§31498.3. Transfer to Plan 3 by general members; change of election upon reemployment not permitted (San Mateo)

(a) General members may, within 180 days of the effective date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, a transferring member shall receive credit for no more than 24 months of public service performed prior to December 31, 1969, including service with the employer, military service, and any other public service to which the member would otherwise be eligible under this chapter, except that member contributions shall not be collected.

(d) The transfer by the member is voluntary and shall be irrevocable, unless the board of supervisors, by resolution, authorizes Retirement Plan 3 members to transfer to Retirement Plan 2, under terms and conditions specified in the resolution. These terms may include, but are not limited to, an eligibility provision based on the number of years in county service, a provision for crediting service in Retirement Plan 2 only for that service rendered after adoption of the resolution, or an eligibility provision allowing members to transfer to Retirement Plan 2 all county service rendered under Retirement Plan 3 provided the member deposits into the retirement fund within a specified time an amount equal to the contributions he or she would have made during that time, had he or she been a member of Retirement Plan 2, together with regular interest on that amount. The resolution may establish different conditions for different job classifications or groups, and for represented bargaining units, conditions mutually agreed upon by the employer and the employee representative. The board of supervisors may also establish any other conditions it deems necessary or desirable.

(e) Any member who has elected or transferred to the plan created by this article and who terminates his or her employment and is later reemployed shall not be entitled to change his or her election upon that reemployment, unless a resolution, enacted by the board of supervisors subsequent to the member's election to transfer to the new plan, so provides.

(Amended by Stats. 1991, Ch. 344, Sec. 2, Effective August 6, 1991. Applicable as of March 1, 1991, pursuant to Ch. 344 , Sec. 3)

§31498.7. Employer contribution (San Mateo)

Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

Article 1.7

Alternative Plan for Counties of the 25th Class (Merced)

(Article 1.7 added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499. Name of plan; application of article; purpose; construction with other laws; amendments of article (Merced)

(a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 25th class described by Section 28046, if the board of supervisors executes a memorandum of

understanding with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide an optional, noncontributory retirement plan for general members as an alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and who elect the plan created by this article and (2) existing general members who transfer to the plan herein created, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided below, the provisions contained in this chapter shall apply:

(1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.

(2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.

(3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.

(4) Article 12 (commencing with Section 31780) of this chapter shall not be applicable.

(5) Article 16.5 (commencing with Section 31870) of this chapter shall not be applicable.

(g) Article 15 (commencing with Section 31830) shall only be applicable for service retirement. Those provisions of Article 15 dealing with disability retirement, death benefits, and the requirement relating to the deposit of accumulated member contributions shall not be applicable.

(h) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each such section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually agreed between the employer and its employee representatives.

(i) Unless specifically otherwise provided therein, no amendment to this article enacted subsequent to the effective date of this article shall apply to any county or to the employees of any county unless and until mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.1. Definitions (Merced)

Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) “Board” means the board of retirement.

(b) “Employer” means the county or district or agency whose employees are members of the retirement system of the county.

(c) “Federal system” means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) “Final compensation” means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the time an application for retirement is filed or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan

provided by the employer.

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except as employee eligible for safety membership.

(f) "Primary insurance amount" means the monthly retirement benefits payable under the federal system at the age of 65.

(g) "Service" means the period of uninterrupted employment of a member and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a disability plan provided by the employer.

Except as otherwise herein provided, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service shall not include military service or public service other than service with the employer.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.2. General members' contributions; transfers to plan; refund of contributions and interest; credit for prior public service (Merced)

(a)(1) Except as otherwise provided in Section 31499.3, there shall be no general members' contributions under the plan created by this article.

(2) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. Any refund under this section shall be payable to the member.

(b)(1) Except as provided in Sections 31499.3 and 31499.7 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and may not receive credit for that prior public service.

(2) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, may not be considered as breaking the continuity of service.

(3) For the purposes of subdivision (b) of Section 31499.4, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee receives any benefit which has been approved by the employer, may not be considered an interruption of service. However, the period of time of unpaid leave may not be considered as service in calculating the benefits otherwise provided under this article.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 13)

§31499.3. Credit for public service prior to becoming member; interruption of service (Merced)

(a) An active member governed by the provisions of this article may elect, by written notice filed with the board, to make contributions and receive credit in this retirement system for service with the county that was rendered prior to his or her current membership in the system and for which he or she would not otherwise be entitled to receive credit pursuant to this article.

(b) Notwithstanding any other provision of this chapter, service credit received by a member pursuant to this section may not be counted to meet the minimum qualifications for service or disability retirement, additional cost-of-living benefits, health care benefits, or any

other benefits based on service credit.

(c) Any member who elects to make contributions and receive service credit pursuant to this section shall contribute to the retirement fund, prior to the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that is equal to the present value of the additional liability incurred by the system in crediting the prior service, based upon actuarial assumptions in effect for the retirement system at the time the election is made.

(d) No member may receive any service credit under this section for which he or she has not completed payment pursuant to subdivision (c) before the effective date of his or her retirement or, if applicable, before the date provided in Section 31485.7. Subject to the limitations of federal law, a member who has elected to make payments in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(e) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(f) This section is not operative until the board of supervisors elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983. Repealed 2004)

(Added Stats. 2004, Ch. 533 (AB 2234), Sec. 15. Former section repealed in 2004. Ch. 533, Sec. 4)

§31499.4. Retirement of member; vested membership; computation of allowance (Merced)

(a) Retirement of a member or former member who has met the requirements for age and service shall be made by the board, at which time the member or former member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the plan created by this article.

(c) Any vested member or vested former member who has attained the age of 65 years may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date.

(d) Any vested member or vested former member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

In no event shall the normal retirement pension, when added to the estimated primary insurance amount, exceed 70 percent of the member's final compensation unless the years of service to which the member is entitled to be credited at retirement exceeds 35, in which case the normal retirement pension, when added to the estimated primary insurance amount, shall not exceed 80 percent of the member's final compensation.

(f) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement

pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement, in the following table:

Age	ERA Factor
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61
61	.67
62	.74
63	.82
64	.90

The ERA Factors set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

(g) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age and salary as of the date of retirement or the date of termination of a vested member, whichever is applicable, provided that:

(1) An employee's prior career earnings shall be assumed to have been subject to the federal system and to have increased on a year-to-year basis at a rate equivalent to the rate of increase in the average per worker total wages reported by the Social Security Administration, and

(2) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (i) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, whichever is applicable, and (ii) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (iii) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(h) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(i) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31499.8.

(j) Notwithstanding subdivision (e) of Section 31499.4, any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.5. Death of retired member; survivors' benefits (Merced)

(a) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b), shall be continued during and throughout the life of his or her surviving spouse, if he or she was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including stepchild or adopted child, attains the age of 18 years, then the allowance which the surviving spouse would have received had she or he lived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, the allowance shall be divided among the children in equal amounts. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or upon attaining the age of 18 years.

Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired members life, and thereafter to have survivor allowance as approved by the board, upon the advice of actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

(c) Designations pursuant to subdivision (b) shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.6. Election of employee to become member (Merced)

Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until he or she certifies to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting his or her election.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.7. Transfers to plan (Merced)

(a) General members may, within 180 days of the effective date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. Such transfer is voluntary and shall be irrevocable.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, a transferring member shall receive credit for no more than 24

months of public service performed prior to December 31, 1969, including service with the employer, military service, and any other public service to which the member would otherwise be eligible under this chapter, except that member contributions shall not be collected.

(d) Any member who has elected or transferred to the plan created by this article and who terminates his or her employment and is later reemployed shall not be entitled to change his or her election upon such reemployment.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.8. Employer contribution (Merced)

Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.9. Severability (Merced)

If any provision of this article, or the application thereof, to any person or circumstances, is held invalid, the invalidity shall not affect other provisions or application of the article which can be given effect without the invalid provisions or application and, to this end the provisions of this article are severable.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

Article 1.8

Alternative Optional, Integrated, Noncontributory Plan for Counties of the 20th Class (Stanislaus)

(Article 1.8 added by Stats. 1985, Ch. 175, Sec. 1, Applicable as prescribed by Section 31499.10)

§31499.10. Retirement Plan 3; applicability of article, purpose; calculation of pension

(a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 20th class as described by Section 28041, if the board of supervisors adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide an optional, noncontributory retirement plan for general members as an alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and who elect the plan created by this article and (2) existing general members who transfer to the plan created by this article, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided below, the provisions contained in this chapter shall apply:

(1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.
(2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.
(3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.
(4) Article 12 (commencing with Section 31780) of this chapter shall not be applicable.

(5) Article 16.5 (commencing with Section 31870) of this chapter shall not be applicable.

(g) Article 15 (commencing with Section 31830) shall only be applicable for service retirement. Those provisions of Article 15 dealing with disability retirement, death benefits, and the requirements relating to the deposit of accumulated member contributions shall not be applicable.

(h) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each such section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually agreed between the employer and its employee representatives.

(i) Unless specifically otherwise provided, no amendment to this article subsequent to the effective date of this article shall apply to any county or to the employees of any county unless mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

(Added by Stats, 1985, Ch. 175, Sec. 1)

§31499.11. Definitions (Stanislaus)

Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employees are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, for a person who became a general member of the plan prior to January 1, 2013, or, for a person who became a general member of the plan on or after January 1, 2013, final compensation means the average annual compensation earnable by a general member during any 36 consecutive months, to be elected by the member at or before the time an application for retirement is filed, or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety member.

(f) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the age of 65.

(g) "Service" means the period of uninterrupted employment of a member

and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a disability plan provided by the employer.

(h) Except as otherwise provided in this article, a member shall not be credited with

service for any period of time in which the member is absent from work without pay.

(i) Unless otherwise provided, service shall not include military service or public service other than service with the employer.

(Added by Stats. 1985, Ch. 175, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 14)

§31499.12. No general members' contributions; refunds for transferred members; prior public service (Stanislaus)

(a)(1) Except as provided for in Section 31499.13, there shall be no general members' contributions under the plan created by this article.

(2) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. Any refund under this section shall be payable to the member.

(b)(1) Except as provided in Sections 31499.13 and 31499.17 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for the public service time, and may not receive credit for that prior public service.

(2) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, may not be considered as breaking the continuity of service.

(3) For the purposes of subdivision (b) of Section 31499.14, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee received any benefit that has been approved by the employer, may not be considered an interruption of service. However, the period of time of unpaid leave may not be considered as service in calculating the benefits otherwise provided under this article.

(Added by Stats. 1985, Ch. 175, Sec. 1)

(Amended by Stats. 2004, Ch. 533 (AB 2234), Sec. 16)

§31499.13. Credit for prior public service; continuity of service; interruption of service (Stanislaus)

(a) An active member governed by the provisions of this article may elect, by written notice filed with the board, to make contributions and receive credit in this retirement system for service with the county that was rendered prior to his or her current membership in the system and for which he or she would not otherwise be entitled to receive credit pursuant to this article.

(b) Notwithstanding any other provision of this chapter, service credit received by a member pursuant to this section may not be counted to meet the minimum qualifications for service or disability retirement, additional cost-of-living benefits, health care benefits, or any other benefits based on service credit.

(c) Any member who elects to make contributions and receive service credit pursuant to this section shall contribute to the retirement fund, prior to the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that is equal to the present value of the additional liability incurred by the system in crediting the prior service, based upon actuarial assumptions in effect for the retirement system at the time the election is made.

(d) No member may receive any service credit under this section for which he or she has not completed payment pursuant to subdivision (c) before the effective date of his or her retirement or, if applicable, before the date provided in Section 31485.7. Subject to the limitations of federal law, a member who has elected to make payments in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(e) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(f) This section is not operative until the board of supervisors elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats, 1985, Ch. 175, Sec. 1, Repealed 2004)

(Added by Stats. 2004, Ch. 533 (AB 2234), Sec. 18. Former section repealed in 2004. Ch. 533, Sec. 4)

§31499.14. Retiring of member or former member; vesting; application; normal or early retirement pensions; computation; proof of age and eligibility (Stanislaus)

(a) Retirement of a member or former member who has met the requirements for age and service shall be made by the board, at which time the member or former member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the plan created by this article.

(c) Any member who is not vested, whose employment terminated, and who is then reemployed shall not receive credit for his or her previous service credited under Plan 3, provided, that the service was rendered in Plan 3.

(d) Any vested member or vested former member who has attained the age of 65 years may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date.

(e) Any vested member or vested former member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(f) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 20 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

In no event shall the normal retirement pension, when added to the estimated primary insurance amount, exceed 70 percent of the member's final compensation unless the years of service to which the member is entitled to be credited at retirement exceeds 35, in which case the normal retirement pension, when added to the estimated primary insurance amount, shall not exceed 80 percent of the member's final compensation.

(g) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement in the following table:

Age	ERA Factor
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61
61	.67
62	.74
63	.82
64	.90

The early retirement adjustment factor set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

(h) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age and salary as of the date of retirement or the date of termination of a vested member, whichever is applicable, provided that:

(1) An employee's prior career earnings shall be assumed to have been subject to the federal system and to have increased on a year-to-year basis at a rate equivalent to the rate of increase in the average per worker total wages reported by the Social Security Administration, and

(2) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (A) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, whichever is applicable, and (B) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (C) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(i) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(j) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31499.15.

(k) Notwithstanding subdivision (f), any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(Added by Stats. 1985, Ch. 175, Sec. 1)

§31499.15. Survivor allowance (Stanislaus)

(a) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b), shall be continued during and throughout the life of his or her surviving spouse, if he or she was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including stepchild or adopted child, attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, the allowance shall be divided among the children in equal amounts. However, the rights of any child to share in the allowance shall cease upon his or her death, marriage, or upon attaining the age of 18 years.

Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

(c) No designation pursuant to subdivision (b) shall, in the opinion of the board and the actuary, place any additional actuarial cost burden upon the retirement system.

(Added by Stats. 1985, Ch. 175, Sec. 1)

§31499.16. Certification of election to be covered by retirement plan (Stanislaus)

Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until he or she certifies to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting his or her election.

(Added by Stats. 1985, Ch. 175, Sec. 1)

§31499.17. Transfer to retirement plan created by this article; election and application; benefits (Stanislaus)

(a) General members may, within 180 days of the effective date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. All transferring members whose

contributions for public service have been refunded to them shall not receive credit for that service.

(d) Any member who selects Retirement Plan 3 upon reentering into county service and who has not received credit as a Plan 3 member for previous county service, may elect to repurchase his or her previous service by redepositing his or her withdrawn contributions, plus interest, from date of termination, and shall then receive credit for that service under the plan status at the time of original employment.

(e) Any member who has elected or transferred to the plan created by this article and who terminates his or her employment and is later reemployed shall not be entitled to change his or her election upon that reemployment, unless a resolution, enacted by the board of supervisors subsequent to the member's election to transfer to the new plan, so provides.

(f) A plan transfer by a member is voluntary and shall be irrevocable, unless the board of supervisors, by resolution, authorizes Retirement Plan 3 members to transfer to a retirement plan authorized under Article 8 (commencing with Section 31670), under the terms and conditions specified in the resolution. The terms may include, but are not limited to, (1) an eligibility provision based on the number of years in county service, or (2) a provision for crediting service in the plan which (A) the member transfers to only for that service rendered after adoption of the resolution or (B) an eligibility provision that, for the purposes of Article 10 (commencing with Section 31720), considers years in county service from the date the member transfers to a new plan unless the prior county service credit is restored, or both. The resolution may establish different service credit conditions for various job classifications or groups, or for various represented bargaining units, different conditions agreed upon by the employer and the employee representative, or both. The board of supervisors may also establish other conditions it deems necessary or desirable.

(Added by Stats. 1985, Ch. 175, Sec. 1)

(Amended by Stats. 2001, Ch. 784 (AB 867), Sec. 1.5, Effective October 13, 2001)

§31499.18. Employer contribution required to finance plan; establishment (Stanislaus)

Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

(Added by Stats. 1985, Ch. 175, Sec. 1)

§31499.19. Severability (Stanislaus)

If any provision of this article, or the application thereof, to any person or circumstances, is held invalid, the invalidity shall not affect other provisions or application of the article which can be given effect without the invalid provisions or application and, to this end the provisions of this article are severable.

(Added by Stats. 1985, Ch. 175, Sec. 1)

Article 2

Establishment of System

(Article 2 added by Stats. 1947, Ch. 424, Sec. 1)

§31500. Procedure

A retirement system is established in any county for eligible officers and employees by

the adoption of an ordinance, accepting this chapter, by:

(a) A majority vote of the electors voting on the proposition at a special or general election; or

(b) A four-fifths vote of the board of supervisors.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31501. Operative date

This chapter becomes operative in any county on either January 1st or July 1st following the adoption of the ordinance, as specified in the ordinance, but not sooner than 60 days after its adoption.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31502. Adoption by institution operated by 2 or more counties or by district; effect; contributions

This chapter may be made effective by a resolution adopted by a majority of the governing board or committee of any institution operated by two or more counties, or by a majority of the governing board or committee of any district as defined in subdivision (c) of Section 31468, if one of the counties involved in the operation of the institution has adopted its provisions, or, in the case of a district as defined in subdivision (c) of Section 31468, if one of the counties comprising the organization or association has adopted its provisions. Upon the adoption of the resolution the employees of the institution shall become members of the retirement system of the county designated by the governing board or committee of the institution, and all contributions made by the employees and by the institution shall be paid into the county retirement system of the county selected. The governing board or committee shall cause to be paid to the county operating the retirement system, the institution's proportionate share of the cost of operation of the system.

(Amended by Stats. 1949, Ch. 1338, Sec. 4)

§31503. Previous systems superseded

A retirement system established pursuant to this chapter shall supersede any previously established county pension system.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 1953, Ch. 789, Sec. 1)

§31505. Sufficient assets to remain with superseded system to pay persons retired

The assets and records of a superseded system shall become the assets and records of this retirement system, but there shall be left to the superseded system not established pursuant to either Chapter 4 or Chapter 5, sufficient assets, according to tables adopted by the board of supervisors, to pay all retirement payments or annuities to persons who have been retired under the superseded retirement system.

(Amended by Stats. 1951, Ch. 1098, Sec. 13)

§31506. Retired members of superseded systems to be paid

All previously retired members of the superseded system shall be paid for their respective lives the full amount of the retirement payments or annuities to which they are entitled.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31507. Appropriation to meet obligations of superseded systems

The retirement board created by this chapter shall determine the amount and kind of assets necessary to meet the requirements of Section 31506, and if the amount so determined proves insufficient, the county shall annually appropriate the sum necessary to fulfill the requirements.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31508. Administration of assets; transfer of superseded system's assets

The assets shall be administered solely by the board subject to the provisions of this chapter as to the custody, investment, and disbursement of the retirement fund. If there are assets of the superseded system remaining after the termination of all liabilities of the superseded system, the remaining assets shall be transferred to and become part of the retirement fund.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31509. Withdrawal of special contributions to superseded system

A member who has made special contributions to a superseded system shall have the option of withdrawing such special contributions together with interest thereon, following the transfer of contributions to this system, or of permitting the contributions to remain as additional contributions to this system. Any member electing to make such withdrawal shall do so by written notice addressed to the board within 90 days after the effective date of this system.

(Added by Stats. 1947, Ch. 424, Sec. 1)

Article 2.1

Additional Plan for Counties of the First Class (Los Angeles)

(Article 2.1 added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989, Applicable as prescribed by Section 31510)

§31510. Los Angeles County; application of article; purpose; limitations on benefits; priority of application (Los Angeles)

(a) This article shall be applicable to all members of the retirement system of any county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(b) The purpose of this article is to provide a defined contribution plan which, in conjunction with retirement benefit provisions otherwise contained in this chapter, will provide approximately the same level of retirement benefits to persons who first become members on or after January 1, 1990, and are subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986, as they would receive under the other retirement benefit provisions in the absence of those limitations, while not affecting the rate of either member or employer contributions to the retirement system. In addition, it is intended that subdivisions (c) and (d) constitute an election under Section 414(b)(10)(C) of the Internal Revenue Code of 1986 with respect to all retirement plans within the retirement system.

(c) Notwithstanding any other provision of this part, the benefits payable to any person who first becomes a member on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986, as adjusted pursuant to Section 414(d)(1)(A) and (B).

(d) Notwithstanding any other law, the benefits payable to any person who first became a member prior to January 1, 1990, shall not be subject to the limitations set forth in Section 415(b) of the Internal Revenue Code of 1986, except to the extent required by subsection (b)(10)(A) of Section 415.

(e) The election described in subdivision (b) shall apply to all employers whose employees are members of the retirement system of the county on December 31, 1989.

(f) The retirement benefits of all persons who first become members of the retirement system on or after January 1, 1990, and participate in Safety Plan B or General Plan D shall be governed by this chapter applicable to those plans and by this article.

(g) Subdivisions (c) and (d) shall not become operative until the board of supervisors has taken the actions required by subdivision (a) of Section 31510.2.

(h) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(Added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

§31510.1. Definitions (Los Angeles)

Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county, district, or agency whose employees are members of the retirement system of the county.

(c) "General Plan F" means the defined contribution plan established in accordance with this article for the benefit of certain members of General Plan D.

(d) "Plan F" means General Plan F and Safety Plan F, collectively.

(e) "Prior plan" means Safety Plan B or General Plan D, as the context requires.

(f) "Safety Plan F" means the defined contribution plan established in accordance with this article for the benefit of certain members in Safety Plan B.

(Added by Stats, 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

§31510.2. General and Safety Plan F; establishment; participants; credit of prior contributions; benefits; compliance with federal tax law; administration; annuity defined; termination of plan (Los Angeles)

(a) The board of supervisors of any county subject to this article shall establish two defined contribution retirement plans authorized by Section 401 of the Internal Revenue Code of 1986. The terms of the plans shall be mutually agreed to by the employer and employee representatives of affected employees prior to adoption or amendment by the board of supervisors. The plans shall be known as General Plan F and Safety Plan F and are referred to collectively as plan F.

(b) Any general member described in subdivision (f) of Section 31510 shall participate in General Plan F, and any safety member described in subdivision (f) of Section 31510 shall participate in Safety Plan F, after commencement of his or her participation in the prior plan.

(c) The board, upon the advice of the actuary, shall determine the portion of the member contributions otherwise required under the prior plan that shall be credited to plan F in lieu of being credited to the other plan. In doing so, the board shall provide for the level of contributions to plan F that is the minimum amount sufficient to satisfy the purposes set forth in subdivision (b) of Section 31510.

(d) The right of the member to benefits derived from member contributions vests under plan F upon the commencement of participation in plan F.

(e) If a member or beneficiary becomes entitled to receive a benefit in the form of an

annuity under the terms of the prior plan, the member's account in plan F shall be converted to the same form of annuity as is payable to the member or beneficiary from the prior plan. The amount of the annuity payable under the prior plan, calculated prior to the application of this article (including the limitations set forth in Section 415 of the Internal Revenue Code of 1986), shall be reduced by the amount of the annuity generated under plan F as described in the preceding sentence. The amount payable from plan F shall be paid at the same time and in the same manner as the annuity payable from the prior plan and may be provided through an annuity contract purchased from an insurance company, at the discretion of the board. Notwithstanding the foregoing, if the member's account in plan F does not exceed three thousand five hundred dollars ($3,500), it shall be paid to the member or beneficiary as a lump-sum payment, in lieu of the benefit otherwise payable under plan F.

(f) If a member or beneficiary becomes entitled to receive the member's accumulated contributions and interest from the prior plan, the member or beneficiary shall receive the member's account balance from plan F consisting of the member's accumulated contributions and actual earnings at the same time and in the same manner.

(g) In applying the limitations set forth in Section 415 of the Internal Revenue Code of 1986, benefits or annual additions in qualified retirement plans maintained by an employer separate from the retirement system shall be reduced first. Any additional reduction shall be made to the benefits from plans within the retirement system other than plan F, and then lastly to the annual addition to plan F.

(h) Plan F shall be administered in accordance with subsection (a) of Section 401 of the Internal Revenue Code of 1986 and the Treasury Regulations issued thereunder. The plan shall state that it is intended to be a profit-sharing plan wherein contributions are determined without regard to current or accumulated profits.

(i) For the purpose of this article, the term "annuity" means the combined benefit provided by an annuity, as defined in Section 31457, and the pension, as defined in Section 31471.

(j) To the extent any county subject to this article terminates General Plan F or Safety Plan F, or both of them, with respect to any group of members and in accordance with their terms and adopts a replacement benefits program under Section 31899.4 for those members in lieu of that plan or plans, this section shall be inoperative in that county with respect to those members. In any event, the election made pursuant to subdivision (b) of Section 31510, the provisions of subdivisions (c), (d), (e), (f), and (h) of Section 31510, and the provisions of Section 31510.3 shall remain operative in that county.

(Added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

(Amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 2)

§31510.3. Disability benefits (Los Angeles)

It is intended that disability benefits payable from the retirement system pursuant to Article 10 (commencing with Section 31720), in the event of the member's termination of employment for disability, are compensation for personal injury or sickness, and therefore would not be subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986. If the Internal Revenue Service rules that the disability benefits are subject to those limitations, any employer which is subject to this article shall provide an alternate disability benefit equal to the decrease in the disability benefit caused by application of those limitations, through a long-term disability plan which shall be separate from the retirement system. The terms of that long-term disability plan shall be mutually agreed to by the employer and employee representatives and adopted by the board of supervisors.

(Added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

§31510.4. Contributions; maintenance to not affect; interest credit (Los Angeles)

It is intended that the maintenance of plan F not affect the rate of either member or employer contributions to the retirement system. The board may set a rate of regular interest credited to contributions to the prior plan made with respect to members participating in plan F that is different than the rate of regular interest credited to contributions made with respect to members not participating in plan F, if necessary to effectuate that intent.

(Added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

Article 2.6

Alternative Plan for Counties of the 13th Class (Ventura)

(Article 2.6 added by Stats. 1985, Ch. 1480, Sec. 1)

§31511. Creation and name of plan; purpose; applicability; conflicting laws (Ventura)

(a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 13th class as described by Sections 28020 and 28034, if the board of supervisors executes a memorandum of understanding agreement with employee representatives and adopts, by a majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide a noncontributory retirement plan for general members as an alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and (2) existing general members who transfer to the plan herein created, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided below, the provisions contained in this chapter shall apply:

(1) Article 10 (commencing with Section 31720) shall not apply.

(2) Article 16.5 (commencing with Section 31870) shall not apply.

(g) Article 15 (commencing with Section 31830) shall only be applicable for service retirement. Those provisions of Article 15 (commencing with Section 31830) dealing with disability retirement and the requirement relating to the deposit of accumulated member contributions shall not apply.

(h) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each such section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually agreed between the employer and its employee representatives.

(i) Unless specifically otherwise provided therein, no amendment to this article enacted subsequent to the effective date of this article shall apply to any county or to the employees of any county unless and until mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.1. Definitions; establishment of defined contribution retirement plan (Ventura)

Unless the context otherwise requires, the definitions continued in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employees are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety membership.

(e) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the normal retirement age.

(f) "Service" means the period of employment of a member and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a long-term disability plan provided by the employer.

Except as otherwise herein provided, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service shall not include military service or public service other than service with the employer.

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

The board of supervisors of any county subject to this article shall establish a defined contribution retirement plan authorized by Section 401 of the United States Code.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.2. General members contributions; refund to members electing transfer to plan (Ventura)

(a) There shall be no general members' contributions under the plan created by this article.

(b) No refund shall be made to any member who elects to transfer to the retirement plan created by this article of the member's accumulated contributions. A member who elects to transfer to the retirement plan established pursuant to this article shall receive: service credit toward vesting under the other retirement plan; a pension from the other retirement plan based upon his or her credited service on the day prior to the operative date of the transfer to the retirement plan established pursuant to this article; and a pension from the retirement plan established pursuant to this article based upon service credited on and after the operative date of the transfer to the retirement plan established pursuant to this article.

(Added by Stats, 1985, Ch. 1480, Sec. 1)

§31511.3. Interruptions in service (Ventura)

(a) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by the long-term disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(b) For the purposes of subdivision (b) of Section 31511.4, an unpaid leave of absence

which has been approved by the employer, shall not be considered an interruption of service. However, the period of time of unpaid leave shall not be considered as service in calculating the retirement benefits otherwise provided under this article.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.4. Vested membership; age and service at retirement; early retirement adjustments

(a) Retirement of a member who has met the requirements for age and service shall be made by the board, at which time the member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the retirement plan created by this article.

(c) Any vested member who has attained normal retirement age may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date. For purposes of this article, normal retirement date means the first day of the month coincident with or next following the member's normal retirement age. For purpose of this article, normal retirement age means:

For Persons Born	Normal Retirement Age
1937 or before	65
1938	65 and 2 months
1939	65 and 4 months
1940	65 and 6 months
1941	65 and 8 months
1942	65 and 10 months
1943-1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960 and later	67

(d) Any vested member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(e) The normal retirement pension for a member who has attained normal retirement age shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to: 2.333 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, but not to exceed 30 years; reduced by 2.166 percent of the estimated primary insurance amount, if any, multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, but not to exceed 30 years, multiplied by a fraction, the numerator of which is the number of years of service with the employer subject to coverage under the federal system, but not to exceed 30 years, and the denominator of which is 30.

(f) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth, based on the number of years and months by which the member's early retirement date precedes the member's normal retirement date, in the following tables:

Early Retirement Adjustment Factors

Years	Months 0	1	2	3	4
0	1.0000	0.9944	0.9889	0.9833	0.9778
1	0.9333	0.9278	0.9222	0.9167	0.9111
2	0.8667	0.8611	0.8556	0.8500	0.8444
3	0.8000	0.7944	0.7889	0.7833	0.7778
4	0.7333	0.7278	0.7222	0.7167	0.7111
5	0.6667	0.6639	0.6611	0.6583	0.6556
6	0.6333	0.6306	0.6278	0.6250	0.6222
7	0.6000	0.5972	0.5944	0.5917	0.5889
8	0.5667	0.5639	0.5611	0.5583	0.5556
9	0.5333	0.5306	0.5278	0.5250	0.5222
10	0.5000	0.4972	0.4944	0.4917	0.4889
11	0.4667	0.4639	0.4611	0.4583	0.4556
12	0.4333	0.4306	0.4278	0.4250	0.4222

Early Retirement Adjustment Factors

Years	Months 5	6	7	8
0	0.9722	0.9667	0.9611	0.9556
1	0.9056	0.9000	0.8944	0.8889
2	0.8389	0.8333	0.8278	0.8222
3	0.7722	0.7667	0.7611	0.7556
4	0.7056	0.7000	0.6944	0.6889
5	0.6528	0.6500	0.6472	0.6444
6	0.6194	0.6167	0.6139	0.6111
7	0.5861	0.5833	0.5806	0.5778
8	0.5528	0.5500	0.5472	0.5444
9	0.5194	0.5167	0.5139	0.5111
10	0.4861	0.4833	0.4806	0.4778
11	0.4528	0.4500	0.4472	0.4444
12	0.4194	0.4167	0.4139	0.4111

Early Retirement Adjustment Factors

Years	Months 9	10	11	12
0	0.9500	0.9444	0.9389	0.9333
1	0.8833	0.8778	0.8722	0.8667
2	0.8167	0.8111	0.8056	0.8000
3	0.7500	0.7444	0.7389	0.7333
4	0.6833	0.6778	0.6722	0.6667
5	0.6417	0.6389	0.6361	0.6333
6	0.6083	0.6056	0.6028	0.6000
7	0.5750	0.5722	0.5694	0.5667
8	0.5417	0.5389	0.5361	0.5333
9	0.5083	0.5056	0.5028	0.5000
10	0.4750	0.4722	0.4694	0.4667
11	0.4417	0.4389	0.4361	0.4333
12	0.4083	0.4056	0.4028	0.4000

(g) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age as of the date of retirement or the date of termination of a vested member, whichever is applicable, and the employee's earnings, provided that:

(1) An employee's earnings prior to the first day of service with the employer shall be assumed to have been zero, and

(2) An employee's earnings during the period of service shall include only those earnings paid by the employer, and

(3) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (i) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, whichever is applicable, and (ii) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (iii) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(h) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(i) Notwithstanding subdivision (e), any retired member receiving a normal retirement pension may present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work or any reductions on account of early retirement. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(j) All part-time and intermittent employees of a county which elects to be subject to this article shall not be eligible to participate in the retirement plans provided by this article.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.5. Surviving spouse benefits (Ventura)

Notwithstanding any other provision of this chapter to the contrary, no surviving spouse benefit shall be paid to a surviving spouse of a member who at the time of death had not met the minimum age and service credit requirements for service retirement.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.6. Transfer to plan; time for election (Ventura)

General members may, within 180 days of the operative date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. Furthermore, any general member who does not elect to transfer during this 180-day period, may elect to transfer within the 30 days prior to any annual anniversary of the operative date of this article. Such a transfer is voluntary and shall be irrevocable.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.7. Employer contribution rate; actuarial establishment (Ventura)

Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution rate required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.8. Cost-of-living adjustments (Ventura)

The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member of the plan created by this article who retires at or beyond normal retirement age or dies shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All urban Consumers for the Los Angeles-Anaheim-Long Beach area, but such changes shall not exceed 5 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 5 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance. No adjustment shall be made in the retirement allowance of a member who retires prior to attaining normal retirement age until the member attains normal retirement age.

(Added by Stats. 1985, Ch. 1480. Sec. 1)

§31511.9. Long-term disability plan (Ventura)

(a) An employer which is subject to this article shall provide disability benefits for its employees through a long-term disability plan which shall be separate from and administered separately from the retirement plans authorized by this article and all other retirement plans.

(b) The long-term disability plan shall consist of a separate trust which shall be funded utilizing a level cost method and employer contributions. No employee shall be required to make any employee contribution to the long-term disability plan.

(c) The board of supervisors shall contract for the resolution of the issue of disability. The board of supervisors shall establish an appeals board to which a member who is aggrieved by a decision of the administrator may appeal.

(d) Any member permanently incapacitated for the performance of duty, regardless of age or years of service, shall receive disability benefits as follows: (1) for not to exceed two years; (2) for any time after the expiration of the two-year period specified in subdivision (a) if, and only if the member is unable to perform the duties of any occupation for which the member is qualified by reason of training or experience.

(e) The disability benefit shall be 50 percent of the final compensation of the member reduced by any Social Security benefits, workers' compensation benefits, and earnings from any employment other than employment which is part of a rehabilitation program.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.10. Plan manager; education of employees regarding benefits (Ventura)

(a) The board of retirement shall establish a position whose qualifications shall include experience in administration and communication of defined benefit plans and defined contribution plans and whose duties shall include management of the plan or plans adopted pursuant to this article and reporting to the county treasurer and the director of personnel.

(b) The board of retirement shall establish and implement a comprehensive communication program to educate employees regarding the benefits available under this article and Social Security.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.11. Internal Revenue Code Section 401 plan; establishment (Ventura)

(a) The board of supervisors of any county subject to this article shall establish a defined contribution retirement plan authorized by Section 401 of the Internal Revenue Code of 1954 or a similar plan authorized by the Internal Revenue Code of 1954.

(b) Any full-time employee of the county who is hired by the county on or after the operative date of this article in that county and has completed 6 months of credited full-time service with the county or any member who elects to transfer to the retirement plan created by this article shall participate in the plan.

(c) The county shall partially or fully match the contributions of the employees on the basis mutually agreed to by the board of supervisors and the employee representatives.

(d) The right of the employee to benefits derived from employee contributions vests upon the commencement of the participation by the employee in the plan.

(e) The right of the employee to benefits derived from matching employer contributions vests 100 percent after five years of full-time service with the county.

(f) Upon termination of the employment of an employee whose benefits derived from employer contributions are not vested, benefits derived from the contributions of the employee shall be refunded to the employee and the matching contributions of the employer shall be credited to reduce future employer contributions or to pay expenses of the plan.

(g) The defined contribution plan shall accept rollover contributions from other plans to the extent authorized by federal law.

(h) The plan shall be administered in accordance with subdivision (k) of Section 401 of the United States Code.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

Article 2.7

General Limitations

(Article 2.7 added by Stats. 1995, Ch. 558 (SB 226), Sec. 2)

§31515. County Employees Retirement Law of 1937; legislative intent; cite

It is the intent of the Legislature to specifically include in the County Employees Retirement Law of l937 provisions of law that limit public retirement benefits, other than health benefits, for the members of the legislative bodies of counties and districts and provisions respecting the impact of salary and benefit increases upon the funding status of county retirement systems.

This chapter shall be known and may be cited as the Responsibility in Pensions Act of 1995.

(Added by Stats. 1995, Ch. 558 (SB 226), Sec. 2)

§31515.5. Salary and benefit increases; agenda item at public meeting of board of supervisors; notice; estimate of actuarial impact; construction

The board of supervisors, in compliance with Section 23026, shall make public, at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and nonrepresented employees. Notice of any salary or benefit increase shall be included on the agenda for the meeting as an item of business in compliance

with the requirements of Section 54954.2. Notice shall occur prior to the adoption of the salary or benefit increase, and shall include an explanation of the financial impact that the proposed benefit change or salary increase will have on the funding status of the county employees' retirement system.

The board of retirement, or board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized, consistent with its fiduciary duties, to have an enrolled actuary prepare an estimate of the actuarial impact of the salary or benefit increase. The actuarial data shall be reported to the board of supervisors.

Nothing in this section shall be construed to limit or lessen the requirement imposed by Section 7507 that the costs associated with increases in benefits be determined by an enrolled actuary and publicly disclosed two weeks prior to an adoption of the increase in benefits.

(Added by Stats. 1995, Ch. 558 (SB 226), Sec. 2)

§31516. Enrolled actuary; statement of actuarial impact; release at public meeting

The board of supervisors, in compliance with Section 7507, shall secure the services of an enrolled actuary to provide a statement of the actuarial impact upon future annual costs before authorizing increases in benefits. An "enrolled actuary" means an actuary enrolled under Sections 1241 and 1242 of Title 29 of the United States Code and "future annual costs" shall include, but not be limited to, annual dollar increases or the total dollar increases involved when available.

The future annual costs as determined by the actuary shall be made public at a public meeting at least two weeks prior to the adoption of any increases in benefits.

(Added by Stats. 1995, Ch. 558 (SB 226), Sec. 2)

§31517. Member of legislative body of county or district; limitations on benefits; application of section

(a) Notwithstanding any other provision of this chapter, as provided in Section 53060.1, the benefits of any member of a legislative body of any county or district shall be no greater than that received by nonsafety employees of that public agency. In the case of agencies with different benefit structures, the benefits of members of the legislative body shall not be greater than the most generous schedule of benefits being received by any category of nonsafety employees.

(b) Notwithstanding any other provision of this chapter, members of the legislative body of a county or district shall not be eligible to accrue multiple benefits greater than the most generous schedule of benefits being received by any category of nonsafety employees from two or more public agencies for concurrent service except in the case of a member who serves as a regular full-time employee in a separate public agency.

(c) This section shall be applicable to any member of a legislative body whose first service commences on and after January 1, 1995.

(Added by Stats. 1995, Ch. 558 (SB 226), Sec. 2)

Article 3

Retirement Board

(Article 3 added by Stats. 1947, Ch. 424, Sec. 1)

§31520. Membership; qualifications; terms

Except as otherwise delegated to the board of investment and except for the statutory duties of the county treasurer, the management of the retirement system is vested in the board

of retirement, consisting of five members, one of whom shall be the county treasurer. The second and third members of the board shall be active members of the association elected by it within 30 days after the retirement system becomes operative in a manner determined by the board of supervisors. The fourth and fifth members shall be qualified electors of the county who are not connected with county government in any capacity, except one may be a supervisor and one may be a retired member, and shall be chosen by the board of supervisors. The first persons chosen as the second and fourth members shall serve for two years from the date the system becomes operative and the third and fifth members shall serve for a term of three years from that date. Thereafter the terms of office of the four elected members are three years.

As used in this section "active member" means a member in the active service of a county, district, or superior court and a "retired member" means a member, including a member under former Section 31555, retired for service or disability.

(Amended by Stats. 1980, Ch. 448, Sec. 1)

(Amended by Stats. 2002, Ch. 784 (SB 1316), Sec. 188)

§31520.1. Membership in certain counties; qualifications; term; alternate member

(a) In any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662.2), the board of retirement shall consist of nine members and one alternate, one of whom shall be the county treasurer. The second and third members of the board shall be members of the association, other than safety members, elected by those members within 30 days after the retirement system becomes operative in a manner determined by the board of supervisors. The fourth, fifth, sixth, and ninth members shall be qualified electors of the county who are not connected with the county government in any capacity, except one may be a supervisor, and shall be appointed by the board of supervisors. A supervisor appointed as a member of the retirement board may not serve beyond his or her term of office as supervisor. The seventh member shall be a safety member of the association elected by the safety members. The eighth member shall be a retired member elected by the retired members of the association in a manner to be determined by the board of supervisors. The alternate member shall be that candidate, if any, for the seventh member from the group under Section 31470.2 or 31470.4, or any other eligible safety member in a county if there is no eligible candidate from the groups under Sections 31470.2 and 31470.4, which is not represented by a board member who received the highest number of votes of all candidates in that group, and shall be referred to as the alternate seventh member. If there is no eligible candidate there may not be an alternate seventh member. The first person chosen as the second and fourth members shall serve for a term of two years beginning with the date the system becomes operative, the third and fifth members shall serve for a term of three years beginning with that date, and the sixth, seventh and alternate seventh members shall serve for a term of two years beginning on the date on which a retirement system established by this chapter becomes operative. The eighth and ninth members shall take office as soon as practicable for an initial term to expire concurrent with the expiration of the longest remaining term of an elected member. Thereafter, the terms of office of the elected, appointed, and alternate seventh members are three years, except as provided in Section 31523.

(b) The alternate seventh member provided for by this section shall vote as a member of the board only if the second, third, seventh, or eighth member is absent from a board meeting for any cause, or if there is a vacancy with respect to the second, third, seventh, or eighth member, the alternate seventh member shall fill the vacancy until a successor qualifies. The alternate seventh member shall sit on the board in place of the seventh member if a member of the same service is before the board for determination of his or her retirement.

(c) The alternate seventh member shall be entitled to both of the following:

(1) The alternate seventh member shall have the same rights, privileges, responsibilities, and access to closed sessions as the second, third, seventh, and eighth member.

(2) The alternate seventh member may hold positions on committees of the board independent of the second, third, seventh, or eighth member and may participate in the deliberations of the board or any of its committees to which the alternate seventh member has been appointed whether or not the second, third, seventh, or eighth member is present.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 1)

§31520.2. Board of investments in certain counties

(a) In any county in which the assets of the retirement system exceed eight hundred million dollars ($800,000,000), the board of supervisors may, by resolution, establish a board of investments. The board shall consist of nine members, one of whom shall be the county treasurer. The second and third members shall be general members of the association elected by the general membership of the association for a three-year term. The fourth member shall be a safety member elected by the safety membership of the association for a three-year term. The eighth member shall be a retired member of the association elected by the retired membership of the association for a three-year term. The fifth, sixth, seventh, and ninth members shall be qualified electors of the county who are not connected with county government in any capacity, and shall be appointed by the board of supervisors. They shall also have had significant experience in institutional investing, either as investment officer of a bank, or trust company; or as investment officer of an insurance company, or in an active, or advisory, capacity as to investments of institutional or endowment funds. The first person chosen as a fifth, sixth, or seventh member shall serve for a three-year term, the second person chosen shall serve a four-year term, and the third person chosen shall serve a two-year term. The first person appointed as the ninth member shall serve a one-year term. Thereafter, all terms of all appointed members shall be three years.

(b) The board of investments shall be responsible for all investments of the retirement system.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 2)

§31520.3. Counties of the 16th class; appointment and election of alternate retired member; term (Santa Barbara)

(a) Notwithstanding Section 31520.1, the board of retirement of a county of the 16th class, as defined by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member and thereafter the alternate retired member shall be elected by the retired members of the association in the same manner and at the same time as the eighth member is elected.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy for the remainder of the eighth member's term of office.

(c) Except as provided in subdivision (b), the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member. The alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or any of its committees to which the alternate retired member has been appointed whether or not the eighth member is present.

(d) The alternate retired member shall be entitled to the same compensation as the

eighth member for attending a meeting, pursuant to Section 31521, whether or not the eighth member is in attendance at those meetings.

(e) (1) In the event that this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate seventh member shall not sit and act for the retired member, except as described in paragraph (2).

(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate seventh member may sit and act for the eighth member as described in Section 31520.1.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 3)

§31520.4. Workers' compensation benefits; course and scope of employment; eligibility

In any county with a board of retirement composed of nine members pursuant to Section 31520.1, if the second, third, seventh, or alternate seventh member of the board is injured or killed while performing his or her duties as a member of the board, that member shall be deemed to have been acting in the course and scope of his or her duties as an employee of the county or district employing the member, for the limited purpose of determining eligibility for workers' compensation benefits or disability or death benefits from the retirement system.

This section shall not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in that county.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 4)

§31520.5. Counties with 9-member retirement boards; appointment of alternate retired member; term; rights and privileges

(a) Notwithstanding Section 31520.1, in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of retirement may, by majority vote, appoint, from a list of nominees submitted by a recognized retiree organization, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member. Thereafter, the alternate retired member shall be elected separately by the retired members of the association in the same manner and at the same time as the eighth member is elected.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy for the remainder of the eighth member's term of office.

(c) Except as otherwise provided in this section, the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member.

(d) The alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or any of its committees to which the alternate retired member has been appointed whether or not the eighth member is present.

(e) The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Sections 31521 and 31521.1, whether or not the eighth member is in attendance at those meetings.

(f) (1) If this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate seventh member shall not sit and act for the eighth member, except as described in paragraph (2).

(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate seventh member may sit and act for the eighth member as described in

Section 31520.1.

(Added by Stats. 1992, Ch. 96 (AB 2011), Sec. 2, effective June 18, 1992)

(Amended by Stats. 2000, Ch. 486 (AB 2291), Sec. 1)

(Amended by Stats. 2001, Ch. 168 (AB 1665), Sec. 1)

(Amended by Stats. 2003, Ch. 852 (AB 1587), Sec. 3)

(Amended by Stats. 2004, Ch. 183 (AB 3082), Sec. 168, and Ch. 441 (AB 979), Sec. 1 (Ch. 441 prevails))

(Amended by Stats. 2007, Ch. 320 (AB 753), Sec. 2)

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 5)

(Amended by Stats. 2012, Ch. 178 (SB 1382), Sec. 3)

§31520.6. Voting by alternate retired member

Notwithstanding any provision to the contrary in Section 31520.3 or 31520.5, in any county in which there is an alternate retired member, if the eighth member is present, the alternate retired member may also vote as a member of the board in the event both the second and third, or both the second and seventh, or both the third and seventh members are absent for any cause.

(Added by Stats. 2016, Ch. 134 (AB 2376), Sec. 4)

§31520.11. County of Contra Costa; alternative terms of office (Contra Costa)

As an alternative to the terms of office specified in Section 31520.1, the County of Contra Costa may, if the board of supervisors adopts a resolution, have terms of office which expire as follows:

Seat number 1, the treasurer, who serves on the board of retirement ex officio, and whose term of office on the retirement board expires with his or her term of office as treasurer.

Seats 2, 4, and 8 expire June 30, 1992, and every three years thereafter.

Seats 3, 5, and 9 expire June 30, 1993, and every three years thereafter.

Seats 6, 7, and alternate expire June 30, 1994, and every three years thereafter.

(Added by Stats. 1991, Ch. 1226, Sec. 7)

§31520.12. Counties of the ninth class; appointment of alternate members; voting rights; compensation; term

(a) Notwithstanding Section 31520.1, and subject to the limitations of subdivision (c), in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of supervisors may, by resolution adopted by majority vote, appoint an alternate member for the fourth, fifth, sixth, and ninth members. The term of office of the alternate member shall run concurrenty with the term of office of the ninth member. The alternate member shall vote as a member of the board only in the event the fourth, fifth, sixth, or ninth member is absent from a board meeting for any cause. If there is a vacancy with respect to the fourth, fifth, sixth, or ninth member, the alternate member shall fill that vacancy until a successor qualifies.

(b) The alternate member for the fourth, fifth, sixth, or ninth member shall be entitled to the same compensation as the fourth, fifth, sixth, or ninth member for attending a meeting, pursuant to Section 31521, whether or not the fourth, fifth, sixth, or ninth member attends the meeting.

(c) If the board of supervisors appoints a supervisor as the fourth, fifth, sixth, or ninth member, an alternate member appointed pursuant to subdivision (a) may not serve as an alternate for that supervisor member unless service by an alternate member for an appointed supervisor member is approved by the majority of the electors in the county.

(d) This section shall apply only to a county of the ninth class, as defined in Sections 28020 and 28030.

(Added by Stats. 2005, Ch. 64 (AB 719), Sec. 1)

§31520.13. Counties of the 13th class; appointment of alternate members; term; voting rights; compensation

(a) Notwithstanding Section 31520.1, in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of supervisors may, by resolution adopted by majority vote, appoint an alternate member for the fourth, fifth, sixth, and ninth members. The term of office of the alternate member shall run concurrently with the term of office of the ninth member. The alternate member shall vote as a member of the board only in the event the fourth, fifth, sixth, or ninth member is absent from a board meeting for any cause. If there is a vacancy with respect to the fourth, fifth, sixth, or ninth member, the alternate member shall fill that vacancy until a successor qualifies.

(b) The alternate member for the fourth, fifth, sixth, or ninth member shall be entitled to the same compensation as the fourth, fifth, sixth, or ninth member for attending a meeting, pursuant to Section 31521, whether or not the fourth, fifth, sixth, or ninth member attends the meeting.

(c) This section shall apply only to a county of the 13th class, as defined in Sections 28020 and 28034.

(Added by Stats. 2015, Ch. 38, (AB 663), Sec. 1)

§31521. Compensation of members; expenses

The board of supervisors may provide that the fourth and fifth members, and in counties having a board consisting of nine members or nine members and an alternate retired member, the fourth, fifth, sixth, eighth, ninth, and alternate retired members, and in counties having a board of investments under Section 31520.2, the fifth, sixth, seventh, eighth, and ninth members of the board of investments, shall receive compensation at a rate of not more than one hundred dollars ($100) for a meeting, or for a meeting of a committee authorized by the board, for not more than five meetings per month, together with actual and necessary expenses for all members of the board.

(Amended by Stats. 1983, Ch. 466, Sec. 1)

(Amended by Stats. 1998, Ch. 109 (AB 1766), Sec. 1)

(Amended by Stats. 2007, Ch. 320 (AB 753), Sec. 3)

§31521.1. Compensation of members (Los Angeles)

(a) The board of supervisors may provide that in counties having a board consisting of nine members and an alternate retired member, the fourth, fifth, sixth, eighth, ninth, and alternate retired members, and in counties having a board of investments under Section 31520.2, the fifth, sixth, seventh, eighth, and ninth members of the board of investments, shall receive compensation at a rate of not more than one hundred dollars ($100) for a meeting, or for a meeting of a committee authorized by the board, for not more than five meetings per month, together with actual and necessary expenses for all members of the board.

(b) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1990, Ch. 419, Sec. 3, Effective July 26, 1990)

(Amended by Stats. 2007, Ch. 320 (AB 753), Sec. 4)

§31521.3. Compensation of specified members for review and analysis of disability retirement cases

(a) The board of supervisors may provide that the fourth, fifth, sixth, eighth, ninth, and alternate retired members of the board of retirement shall receive compensation for the review and analysis of disability retirement cases. The compensation shall be limited to the first time

a case is considered by the board and shall not exceed one hundred dollars ($100) per day. The compensation shall be prorated for less than eight hours of work in a single day.

(b) A board member compensated pursuant to subdivision (a) shall certify to the retirement board, in a manner specified by the retirement board, the number of hours spent reviewing disability cases each month. The number of hours compensated under this section shall not exceed 32 hours per month.

(c) On or before March 31, 2010, and on or before March 31 in each even-numbered year thereafter, the compensation limit established by the board of supervisors pursuant to subdivision (a) shall be adjusted biennially by the board of retirement to reflect any change in the Consumer Price Index for the Los Angeles, Riverside, and Orange County areas that has occurred in the previous two calendar years, rounded to the nearest dollar.

(d) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 2007, Ch. 320 (AB 753), Sec. 5)

(Amended by Stats. 2008, Ch. 179 (SB 1498), Sec. 103)

§31522. Duties of board members; additional compensation

The official duties of elected board members who are employees of the county or a district shall be included as part of their county or district employment and their board duties shall normally take precedence over any other duties. The elected board members who are county or district employees shall not receive any additional compensation by virtue of their election to the board.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Repealed and added by Stats. 1998, Ch. 109 (AB 1766), Sec. 2 and 3)

§31522.1. Appointment of staff personnel; civil service or merit system; compensation

The board of retirement and both the board of retirement and board of investment may appoint such administrative, technical, and clerical staff personnel as are required to accomplish the necessary work of the boards. The appointments shall be made from eligible lists created in accordance with the civil service or merit system rules of the county in which the retirement system governed by the boards is situated. The personnel shall be county employees and shall be subject to the county civil service or merit system rules and shall be included in the salary ordinance or resolution adopted by the board of supervisors for the compensation of county officers and employees.

(Amended by Stats. 1979, Ch. 55, Sec. 1, Effective May 11, 1979)

§31522.2. Administrator

In a county in which the board of retirement or both the board of retirement and the board of investment have appointed personnel pursuant to Section 31522.1, the respective board or boards may elect to appoint an administrator as provided for in this section. The position of the administrator shall not be subject to county civil service or merit system rules. The person so appointed shall be a county employee and the position of administrator shall be included in the salary ordinance or salary resolution adopted by the board of supervisors for the compensation of county officers and employees. The administrator so appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the administrator by the appointing board or boards.

This section shall not be operative in any county unless the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(Added by Stats. 1987, Ch. 188, Sec. 1, Effective July 23, 1987)

§31522.3. Assistant administrators; chief investment officers

(a) In a county in which the board of retirement or both the board of retirement and the board of investment have appointed personnel pursuant to Section 31522.1, the respective board or boards may elect to appoint assistant administrators and chief investment officers as provided for in this section. The positions of the assistant administrators and chief investment officers designated by the retirement board shall not be subject to county charter, civil service, or merit system rules. The persons so appointed shall be county employees and shall be included in the salary ordinance or salary resolution adopted by the board of supervisors for the compensation of county officers and employees. The assistant administrators and chief investment officers so appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the assistant administrators and chief investment officers by the appointing board or boards.

(b) This section shall not apply to any person who was an assistant administrator or a chief investment officer and was included in the county civil service or was subject to merit system rules on December 31, 1996.

(c) This section shall only apply to a county of the third class, a county of the eighth class, a county of the 14th class, a county of the 15th class, or a county of the 18th class, as provided by Sections 28020, 28024, 28029, 28035, 28036, and 28039.

(d) Notwithstanding subdivision (c), this section shall also apply to any county if the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(Added by Stats. 1996, Ch. 512 (AB 2655), Sec. 2)

(Amended by Stats. 2006, Ch. 846 (AB 2863), Sec. 2, Effective September 30, 2006)

(Amended by Stats. 2018, Ch. 114 (SB 1270), Section 1)

§31522.4. Assistant administrators, persons next in line of authority to assistant administrators, chief legal officers, chief deputy legal officers, chief investment officers, and investment officers next in line of authority to chief investment officers; applicability (Los Angeles)

(a) In a county in which the board of retirement or both the board of retirement and the board of investment have appointed personnel pursuant to Sections 31522.1 and 31522.2, the respective board or boards may elect to appoint assistant administrators, persons next in line of authority to assistant administrators, chief legal officers, chief deputy legal officers, chief investment officers, and investment officers next in line of authority to chief investment officers as provided for in this section. These positions designated by the board or boards shall not be subject to county charter, civil service, or merit system rules. The persons appointed shall be county employees and their positions shall be included in the salary ordinance or salary resolution adopted by the board of supervisors for the compensation of county officers and employees. The persons appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the persons so appointed by the appointing board or boards.

(b) This section shall not apply to any person who was an assistant administrator, person next in line of authority to an assistant administrator, chief legal officer, chief deputy legal officer, chief investment officer, or investment officer next in line of authority to a chief investment officer and was included in the county civil service or was subject to merit system rules on December 31, 2001, unless that person consents to make this section applicable to him or her.

(c) This section shall only apply to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter

43 of the Statutes of 1961.

(Added by Stats. 2001, Ch. 120 (SB 1132), Sec. 1)

§31522.5. Additional personnel; appointment authority (San Bernardino)

(a) In a county in which the board of retirement has appointed personnel pursuant to Section 31522.1, the board of retirement may appoint an administrator, an assistant administrator, a chief investment officer, senior management employees next in line of authority to the chief investment officer, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel.

(b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county's employee relations resolution, or equivalent local rules, and the terms and conditions of employment established by the board of supervisors for county employees, including those set forth in a memorandum of understanding.

(c) Except as otherwise provided by Sections 31529.9 and 31596.1, the compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2.

(d) The board of retirement and board of supervisors may enter into any agreements as may be necessary and appropriate to carry out the provisions of this section.

(e) Section 31522.2 is not applicable to any retirement system that elects to appoint personnel pursuant to this section.

(f) This section shall apply to the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(Added by Stats. 2002, Ch. 74 (AB 1992), Sec. 2, Effective June 27, 2002, as an urgency statute)

(Amended by Stats. 2006, Ch. 369 (SB 777), Sec. 5)

(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 4)

(Amended by Stats. 2021, Ch. 26 (AB 761), Sec. 1)

§31522.6. Contract with third parties to assume temporary administration of system; catastrophic events; costs

The board may contract with a third party to temporarily assume administration of the system if a catastrophic event destroys or severely damages the system's administrative facilities or otherwise prevents or significantly hinders continued local administration of the system. Local administration of the system shall resume as soon as practicable.

The costs of contracting with the third party for temporary administration of the system shall be a charge against the investment earnings of the retirement fund.

(Added by Stats. 2004, Ch. 533 (AB 2234), Sec. 19)

§31522.7. (Operative date contingent) Additional personnel; not employees of the county; appointment authority (San Bernardino)

(a) In addition to the authority provided pursuant to Section 31522.5, the board of retirement in the County of San Bernardino may appoint an administrator, an assistant administrator, a chief investment officer, senior management employees next in line of authority to the chief investment officer, subordinate administrators, senior management employees next in line of authority to subordinate administrators, supervisors and employees with specialized training and knowledge in pension benefit member services, investment

reporting compliance, investment accounting, pension benefit tax reporting, pension benefit financial accounting, pension law, and legal counsel.

(b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county's employee relations resolution, or equivalent local rules, and the terms and conditions of employment established by the board of supervisors for county employees, including those set forth in a memorandum of understanding.

(c) Except as otherwise provided by Sections 31529.9 and 31596.1, the compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2.

(d) The board of retirement and board of supervisors may enter into any agreements as may be necessary and appropriate to carry out the provisions of this section.

(e) Section 31522.2 is not applicable if the retirement system elects to appoint personnel pursuant to this section.

(f) This section shall apply only to the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(Added by Stats. 2009, Ch. 393 (AB 1406), Sec. 1)

§31522.8. Board member education policy

A board of retirement and a board of investments subject to this article shall adopt a policy for providing education to board members. The policy, at a minimum, shall do the following:

(a) Identify appropriate topics for board member education, which may include, but is not limited to, the following:

(1) Fiduciary responsibilities.
(2) Ethics.
(3) Pension fund investments and investment program management.
(4) Actuarial matters.
(5) Pension funding.
(6) Benefits administration.
(7) Disability evaluation.
(8) Fair hearings.
(9) Pension fund governance.
(10) New board member orientation.

(b) Establish a means for determining the programs, training, and educational sessions that qualify as board member education. Educational seminars sponsored by the state or national public pension fund organizations and seminars sponsored by accredited academic institutions shall be deemed to meet board member education requirements.

(c) Require that all board members receive a minimum of 24 hours of board member education within the first two years of assuming office and for every subsequent two-year period the board member continues to hold membership on the board.

(d) Require each board to maintain a record of board member compliance with the policy. The policy and an annual report on board member compliance shall be placed on the Internet Web site of the retirement system.

(Added by Stats. 2012, Ch. 15 (AB 1519), Sec. 1)

§31522.9. Appointment of retirement administrator; Contra Costa County

(a) The board of retirement of a county may appoint a retirement administrator and

other personnel as are required to accomplish the necessary work of the board. The board may authorize the administrator to make these appointments on its behalf. Notwithstanding any other law, the personnel so appointed shall not be county employees but shall become employees of the retirement system, subject to terms and conditions of employment established by the board of retirement, including those set forth in memoranda of understanding executed by the board of retirement and recognized employee organizations.

(b) Sections 31522.1 and 31522.2 shall not apply to a retirement system that appoints personnel pursuant to this section.

(c) The retirement system that appoints personnel pursuant to this section is a public agency for purposes of the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4).

(d) The compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2, except as provided in Sections 31529.5, 31529.9, and 31596.1.

(e) The board of retirement and the board of supervisors may enter into agreements as they determine are necessary and appropriate in order to carry out the provisions of this section.

(f) The retirement system, upon the effective date of this section, shall retain, for a 90-day transition employment period, nonprobationary employees who, upon the effective date of this section, were covered by a county memorandum of understanding and employed by the county at the retirement system's facilities, unless just cause exists to terminate the employees or legitimate grounds exist to lay off these employees. If during the 90-day period the retirement system determines that a layoff of these employees is necessary, the retirement system shall retain the employees by seniority within job classification. The terms and conditions of employment of the employees retained pursuant to this subdivision shall be subject to the terms and conditions established by the applicable memoranda of understanding executed by the board of retirement and the recognized employee organizations. During the 90-day transition period, probationary employees shall maintain only those rights they initially acquired pursuant to their employment with the county.

(g) Subject to the employees' rights under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4), the retirement system, upon the effective date of this section, shall recognize as the exclusive representative of the employees retained pursuant to subdivision (f) The recognized employee organizations that represented those employees when employed by the county. The initial terms and conditions for those employees shall be as previously established by the applicable memoranda of understanding executed by the county and recognized employee organizations.

(h) This section shall apply only in Contra Costa County.

(Added by Stats. 2014, Ch. 244 (SB 673), Sec. 2)

§31522.10. Appointment of retirement administrator, chief financial officer, chief operations officer, chief investment officer, and general counsel by board of retirement; Ventura County

(a) In a county in which the board of retirement has appointed personnel pursuant to Section 31522.1, the board of retirement may appoint a retirement administrator, chief financial officer, chief operations officer, chief investment officer, and general counsel.

(b) Notwithstanding any other law:

(1) The personnel appointed pursuant to this section shall not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county's employee relations resolution, or equivalent local rules, and the terms and conditions of employment established

by the board of supervisors for county employees, including those set forth in a memorandum of understanding.

(2) Any leave balance accrued by a county employee prior to his or her appointment as a retirement system employee pursuant to this chapter shall be transferred from the county to the retirement system. The county shall pay to the retirement system at the time that the leave is transferred an amount equal to the value of the accrued leave at that time based on the compensation paid to the employee by the county immediately before the transfer.

(c) Except as otherwise provided by Sections 31529.9 and 31596.1, the compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2.

(d) The board of retirement and board of supervisors may enter into any agreements as may be necessary and appropriate to carry out the provisions of this section.

(e) Section 31522.2 is not applicable to a retirement system that elects to appoint personnel pursuant to this section.

(f) This section shall apply only to the retirement system established under this chapter in Ventura County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(Added by Stats. 2015, Ch. 223 (AB 1291), Sec. 2)

(Amended by Stats. 2017, Ch. 48 (AB 995), Sec. 1)

§31522.11. Appointment of personnel; Orange County

(a) In a county in which the board of retirement has appointed personnel pursuant to Section 31522.1, the board of retirement may appoint an administrator, assistant administrators, a chief investment officer, subordinate investment officers next in line of authority to the chief investment officer, senior management employees next in line of authority to the subordinate investment officers, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel.

(b) Notwithstanding any other law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county's employee relations resolution, or equivalent local rules, and the terms and conditions of employment established by the board of supervisors for county employees, including those set forth in a memorandum of understanding.

(c) Except as otherwise provided by Sections 31529.9 and 31596.1, the compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2.

(d) The board of retirement and board of supervisors may enter into any agreements as may be necessary and appropriate to carry out the provisions of this section.

(e) Section 31522.2 is not applicable to any retirement system that elects to appoint personnel pursuant to this section.

(f) This section shall apply only to Orange County.

(Added by Stats. 2021, Ch. 26 (AB 761), Sec. 2)

§31523. Filling vacancies in the second, third, seventh, eighth, or alternate seventh member position of the board of retirement; election

(a) In the event of a vacancy in the second, third, seventh, eighth, or alternate seventh member position on the board of retirement, the board shall cause an election to fill the vacancy to be held at the earliest possible date, except as provided in Sections 31520.3 and 31520.5. The vacancy in the second, third, or eighth member position on the board of retirement shall be filled for the duration of the current term except that, if the remaining portion of the current

term is six months or less on the date of the election, a single election may be held to fill the vacancy for the remainder of the current term and to fill the position for the succeeding term. With respect to a vacancy in the seventh member position, candidates shall be a safety member from a group which is not represented by an incumbent alternate seventh member. With respect to the alternate seventh member position, the candidates shall be limited to the group under Section 31470.2 or 31470.4, or any other eligible safety member in a county if there is no eligible candidate from the groups under Sections 31470.2 and 31470.4 that is not represented by an incumbent seventh board member. The successful candidate shall serve for the duration of the current term.

(b) If there is a vacancy with respect to the alternate retired member, the board of retirement shall, by majority vote, appoint a replacement alternate member in the same manner as prescribed in Sections 31520.3 and 31520.5 for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current eighth member.

(c) If an election has been called on the expiration of the term of office of any member or alternate member, or to fill a vacancy for the second, third, seventh, eighth, or alternate seventh member of a board of retirement, and only one candidate has been duly nominated in accordance with the rules established for the holding of that election, the board of supervisors shall order that no election be held and shall direct the clerk to cast a unanimous ballot in favor of the candidate.

(Repealed and added by Stats. 2011, Ch. 124 (SB 203), Sec. 6 and Sec. 7)

§31523.1. Filling vacancies in the second, third, fourth, or eighth member position of the board of investments

(a) In the event of a vacancy in the second, third, fourth, or eighth member position on a board of investments established pursuant to Section 31520.2, the board of investments shall cause an election to be held at the earliest possible date to fill the vacancy. The vacancy in the second, third, fourth, or eighth member position shall be filled for the duration of the current term except that, if the remaining portion of the current term on the date of the election is six months or less, a single election may be held to fill the vacancy for the remainder of the current term and to fill the position for the succeeding term.

(b) If an election has been called on the expiration of the term of office of any member, or to fill a vacancy for the second, third, fourth, or eighth member position of a board of investments, and only one candidate has been duly nominated in accordance with the rules established for the holding of that election, the board of supervisors shall order that no election be held and shall direct the clerk to cast a unanimous ballot in favor of the candidate.

(Added by Stats. 2011, Ch. 124 (SB 203), Sec. 8)

§31524. Separation from service

Separation from the service of the county of a member of the board vacates his office.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31525. Regulations; approval

The board may make regulations not inconsistent with this chapter. The regulations become effective when approved by the board of supervisors.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31526. Requisites of regulations

The regulations shall include provisions:

(a) For the election of officers, their terms, meetings, and all other matters relating to the administrative procedure of the board.

(b) For one of the following:

(1) The filing of a sworn statement by every person who is or becomes a member, showing date of birth, nature and duration of employment with the county, compensation received, and other information as is required by the board.

(2) In lieu of a sworn statement, the submission by the member's employer to the retirement association of the information otherwise required in paragraph (1), in a form determined by the retirement association.

(c) For forms of annuity certificates and other forms as required.

(Amended by Stats. 1961, Ch. 1852, Sec. 3)

(Amended by Stats. 2016, Ch. 134 (AB 2376), Sec. 5)

§31527. Permissible provisions in regulations

In its regulations, the board may include the following provisions:

(a) From what warrants deductions of members' contributions shall be made.

(b) For a period of time longer than one year during which a member may redeposit in the retirement fund an amount equal to all of the accumulated normal contributions that he or she has withdrawn, plus regular interest thereon from the date of return to service.

(c) For a period of time longer than one year during which a member brought within the field of membership may pay into the retirement fund the amount equal to the contributions he or she would have made plus interest, if he or she had been a member from the date of its organization, or from the date of his or her entrance into service, whichever is later.

(d) For a withdrawal charge against a member who withdraws his or her accumulated contributions. The withdrawal charge shall not exceed the interest credited to the member subsequent to the effective date of the regulation.

(e) For the exemption or exclusion from membership as a peace officer member or as a safety member or from membership altogether, in the discretion of the board, of persons whose tenure is temporary, seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour.

(f) For the periodic physical examination, at county expense, of safety members.

(g) The amount of additional deductions from the salaries or wages of members pursuant to Article 15.5 (commencing with Section 31841) or Article 16 (commencing with Section 31861). Such a provision may be adopted in anticipation of, and prior to Article 15.5 (commencing with Section 31841) or Article 16 (commencing with Section 31861) becoming operative in the particular county.

(h) The day upon which each person becomes a member of the association if it is to be other than the first day of the calendar month after his or her entrance into service. However, that day shall be no later than 12 weeks after his or her entrance into service, or the day upon which the member terminates service credited by the association, and that the day shall be no earlier than 12 weeks prior to the member's termination from employment.

(i) Notwithstanding any other law, for the use and acceptance of a document requiring a signature that is submitted by a member using an electronic signature, if the document and electronic signature are submitted using technology the board deems sufficient to ensure its integrity, security, and authenticity. A document submitted pursuant to the regulation shall be given the same force as a signed, valid original document.

(j) For the use of recorded telephone communications for the processing of authorized transactions affecting a member's account, if the board approves procedures adequate to protect the member and the system. These procedures shall include adequate validation and authentication of member identity and permanent retention of recorded communication.

(Amended by Stats. 1967, Ch. 492, Sec. 1)

(Amended by Stats. 2010, Ch. 158 (SB 1479), Sec. 1)

(Amended by Stats. 2012, Ch. 59 (AB 2664), Sec. 1)

(Amended by Stats. 2013, Ch. 778 (SB 215), Sec. 11)

§31528. Member or employee not to have interest in investments of board; use of funds; revolving door prohibition

(a) Unless permitted by this chapter, a member or employee of the board shall not become an endorser, surety, or obligor on, or have any personal interest, direct or indirect, in the making of any investment for the board, or in the gains or profits accruing from those investments. A member or employee of the board shall not directly or indirectly, for himself or herself, or as an agent or partner of others, borrow or use any of the funds or deposits of the retirement system, except to make current and necessary payments authorized by the board.

(b) A member or employee of the board shall not, directly or indirectly, by himself or herself, or as an agent or partner or employee of others, sell or provide any investment product that would be considered an asset of the fund, to any retirement system established pursuant to this chapter.

(c) An individual who held a position designated in Section 31522.3, 31522.4, or 31522.5, or was a member of the board or an administrator, shall not, for a period of two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any other person except the county, by making any formal or informal appearance before, or any oral or written communication to, the retirement system, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 2007, Ch. 315 (AB 246), Sec. 3)

(Amended by Stats. 2009, Ch. 301 (AB 1584), Sec. 8 – Urgency Statute, Effective October 11, 2009)

§31529. Attorney for board

The district attorney, or the county counsel if there is one, is the attorney for the board.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31529.1. Legal representation; cost (Los Angeles)

Notwithstanding any other provision of this part, the board of retirement or the board of investment may elect to secure legal representation, on such matters as the board of retirement or the board of investment may specify, from other than the county counsel. The cost of the legal representation shall not exceed one-hundredth of 1 percent of system assets in any budget year.

This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1992, Ch. 1047, Sec. 2, Effective January 1, 1993)

§31529.5. Legal services of attorney in private practice; compensation; resolution

Notwithstanding Section 31529, the board may contract for the legal services of an attorney in private practice when the board determines, after consultation with the county counsel, that the county counsel cannot provide the board with legal services due to a conflict of interest or other compelling reason. The compensation of such attorney shall be paid from the portion of reserves created by Section 31592 which exceed one percent of the total assets of the fund, or in the absence of such excess reserves, from the county general fund. This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1977, Ch. 202, Sec. 1)

§31529.6. Legal services of attorney in private practice; compensation (Los Angeles)

In addition to the powers granted by Sections 31529, 31529.5, and 31614, the board of retirement and the board of investment may contract with attorneys in private practice for legal services and advice. The boards shall pay reasonable compensation for the legal services and advice. The compensation shall be considered a cost of administration of the system.

This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1990, Ch. 1467, Sec. 1)

§31529.9. Contracts for legal services; compensation; application of section

(a) In addition to the powers granted by Sections 31522.5, 31522.9, 31529, 31529.5, 31614, and 31732, the board of retirement and the board of investment may contract with the county counsel or with attorneys in private practice or employ staff attorneys for legal services.

(b) Notwithstanding Sections 31522.5, 31522.7, 31529.5, and 31580, the board shall pay, from system assets, reasonable compensation for the legal services.

(c) This section applies to any county of the 2nd class, 7th class, 9th class, 14th class, 15th class, or the 16th class as described by Sections 28020, 28023, 28028, 28030, 28035, 28036, and 28037.

(d) This section shall also apply to any other county if the board of retirement, by resolution adopted by majority vote, makes this section applicable in the county.

(Added by Stats. 1996, Ch. 272 (AB 2633), Sec. 1)
(Amended by Stats. 2002, Ch. 116 (SB 1752), Sec. 1)
(Amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 3)
(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 5)
(Amended by Stats. 2009, Ch. 393 (AB 1406), Sec. 2)
(Amended by Stats. 2014, Ch. 244 (SB 673), Sec. 3)

§31530. County health officer

The county health officer, either directly or through a duly authorized representative, shall advise the board on medical matters and, if requested by the board, shall attend its meetings.

(Added by Stats. 1947, Ch. 424, Sec. 1)
(Amended by Stats. 2021, Ch. 186 (SB 634), Sec. 12)

§31531. Estimate of member's service or age

If it is impracticable for the board to determine from the records the length of service or the age of any member, or if the member refuses or fails to give the board a statement of his service or age, it may estimate his length of service or age for the purposes of this chapter.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31532. Confidential statements and records

Sworn statements and individual records of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration of this chapter or upon order of a court of competent jurisdiction, or upon written authorization by the member.

(Amended by Stats. 1969, Ch. 239, Sec. 1)

§31533. Referee; appointment; hearing; findings and recommendations

Whenever, in order to make a determination, it is necessary to hold a hearing the board

may appoint either one of its members or a member of the State Bar of California to serve as a referee. The referee shall hold such a hearing and shall transmit, in writing, to the board his proposed findings of fact and recommended decision.

(Amended by Stats. 1968, Ch. 547, Sec. 1)

§31534. Service of findings and recommendations; objections; proceedings on referee's report

The proposed findings of fact and recommendations of the referee shall be served on the parties who shall have 10 days to submit written objections thereto which shall be incorporated in the record to be considered by the board.

Upon receiving the proposed findings of fact and the recommendations of the referee, the board may:

(a) Approve and adopt the proposed findings and the recommendations of the referee, or

(b) Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon the receipt thereof the board shall take such action as in its opinion is indicated by such evidence, or

(c) Refer the matter back with or without instructions to the referee for further proceedings, or

(d) Set the matter for hearing before itself. At such hearing the board shall hear and decide the matter as if it had not been referred to the referee.

(Amended by Stats. 1968, Ch. 546, Sec. 1)

§31535. Issuance of subpoenas; taking of depositions

The board may issue subpoenas and subpoenas duces tecum, and compensate persons subpoenaed. This power shall be exercised and enforced in the same manner as the similar power granted the board of supervisors in Article 9 (commencing with Section 25170) of Chapter 1, Part 2, Division 2; except that the power shall extend only to matters within the retirement board's jurisdiction, and committees of the board shall not have this power. Reasonable fees and expenses may be provided for by board regulation for any or all of such witnesses regardless of which party subpoenaed them.

Subpoenas shall be signed by the chairman or secretary of the retirement board, except that the board may by regulation provide for express written delegation of its subpoena power to any referee it appoints pursuant to this chapter or to any administrator appointed pursuant to Section 31522.2.

Any member of the board, the referee, or any person otherwise empowered to issue subpoenas may administer oaths to, or take depositions from, witnesses before the board or referee.

(Amended by Stats. 1990, Ch. 652, Sec. 1)

§31535.1. Subpoenas; compensation of witnesses (Los Angeles)

The board may issue subpoenas and subpoenas duces tecum, and compensate persons subpoenaed. This power shall be exercised and enforced in the same manner as the similar power granted the board of supervisors in Article 9 (commencing with Section 25170) of Chapter 1 of Part 2 of Division 2 of this title; except that the power shall extend only to matters within the board's jurisdiction, and committees of the board shall not have this power. Reasonable fees and expenses may be provided for by board regulation for any or all of the witnesses regardless of which party subpoenaed them.

Subpoenas shall be signed by the chairman or secretary of the board, except that the board may by regulation provide for express written delegation of its subpoena power to the retirement administrator or to any referee it appoints pursuant to this chapter.

Any member of the board, the referee, or any person otherwise empowered to issue

subpoenas may administer oaths to, or take depositions from, witnesses before the board or referee.

This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961

(Amended by Stats. 2011, Ch. 48 (SB 637), Sec. 2)

§31536. Denial of benefit or allowance; appeal; attorney fees

If a superior court reverses the denial by the board of an application for a retirement allowance, or for a survivor's allowance based on such allowance, or for a claim based on a claimed pension right or benefit, the superior court in its discretion may award reasonable attorney's fees as costs to the member or beneficiary of the member who successfully appealed the denial of such application. Such costs shall be assessed against the board, shall be considered a cost of administration, and shall in no event become a personal liability of any member of the board.

(Added by Stats. 1978, Ch. 556, Sec. 1)

§31537. Records management procedures

The board may establish efficient records management procedures, which may include, but need not be limited to, maintenance and, when determined by the board to be necessary, disposal of records in its jurisdiction.

(Added by Stats. 1993, Ch. 24, Sec. 1)

(Amended and Renumbered as Section 31592.5 by Stats. 2004, Ch. 441, Sec. 2)

§31538. Adjustments on payment of benefits

(a) The board shall adjust the payment of benefits payable pursuant to this part, as necessary, in order to maximize the benefits available to members who are subject to the limits of Section 415 of the Internal Revenue Code. Those adjustments shall include, but are not limited to, cost-of-living adjustments, cost-of-living banks, temporary annuities, survivor continuance benefits, or any combinations thereof.

(b) The amount payable to a member in any limitation year, including cost-of-living adjustments, shall not exceed the limit established under Section 415(b) of the Internal Revenue Code at the annuity starting date, and as may be increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and applicable regulations.

(c) The cost-of-living adjustments made pursuant to Section 415(d) of the Internal Revenue Code to the limit established under Section 415(b) of the Internal Revenue Code continue to apply after a member's severance from employment or annuity starting date.

(Added by Stats. 1990, Ch. 797, Sec. 2, Effective September 13, 1990)

(Amended by Stats. 2010, Ch. 188 (AB 1354), Sec. 2)

§31539. Correction of error; Prospective and retroactive adjustments; Rights and remedies; Period of limitation

(a) The board of retirement may, in its discretion, correct any error made in the calculation of a retired member's monthly allowance or any other benefits under this chapter, if either of the following exist:

(1) The error in the calculation of the member's monthly allowance or other benefits under this chapter was made as a result of fraudulent reports for compensation made, or caused to be made, by the member for his or her own benefit.

(2) The member caused his or her final compensation to be improperly increased or otherwise overstated at the time of retirement and the system applied that overstated amount as the basis for calculating the member's monthly retirement allowance or other benefits under

this chapter.

(b) The retirement allowance or other benefits under this chapter with respect to a retired member described in subdivision (a) shall be adjusted prospectively to the amount that would have been payable if the overstatement of the member's final compensation had not occurred.

(c) Adjustment of the member's retirement allowance or other benefits may also be implemented retroactively and include the collection or return of the overpayment of benefits. The board of retirement may direct staff to correct the overpayment of benefits by offsetting the amount to be recovered against future benefits. Adjustments to correct the overpayment of benefits may also be made by adjusting the allowance so that the retired member or the retired member and his or her beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies any party may have at law or in equity. Nothing in this section shall preclude any party from instituting an action for declaratory or other relief in lieu of proceeding under this section.

(e) The period of limitation of actions under this section shall be 10 years and that period shall commence either from the date of payment or upon discovery of the facts described in subdivision (a), whichever date is later. The board shall determine the applicability of the period of limitation in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error.

(Added by Stats. 2004, Ch. 466 (SB 1206), Sec. 1)

§31540. Obligations of retirement system to members, of county or district to retirement system, of members to retirement system; payments for adjustment of errors or omissions (Los Angeles)

(a) The obligations of the retirement system to its members continue throughout their respective memberships, and the obligations of the retirement system to, and in respect to, retired members continue throughout the lives of the retired members, and thereafter until all obligations to the members' beneficiaries under optional settlements have been discharged. The obligations of the county or district to the retirement system with respect to members employed by them, respectively, continue throughout the memberships of the members, and the obligations of the county or district to the retirement system with respect to retired members formerly employed by them, respectively, continue until all of the obligations of the retirement system to those retired members have been discharged. The obligations of any member to the retirement system continue throughout his or her membership, and thereafter until all of the obligations of the retirement system to that member have been discharged.

(b) For the purposes of payments into or out of the retirement fund for adjustment of errors or omissions, the period of limitation of actions shall be three years, and shall be applied as follows:

(1) In cases in which the retirement system makes an erroneous payment to a member or beneficiary, the system's right to collect shall expire three years from the date of payment.

(2) In cases in which the retirement system owes money to a member or beneficiary, the period of limitation shall not apply.

(c) Notwithstanding subdivision (b), in cases in which payment is erroneous because of the death of the retired member or beneficiary or because of the remarriage of the beneficiary, the period of limitation shall be 10 years and that period shall commence with the discovery of the erroneous payment.

(d) Notwithstanding subdivision (b), if any payment has been made as a result of fraudulent reports for compensation made, or caused to be made, by a member for his or her own benefit, the period of limitation shall be 10 years and that period shall commence either

from the date of payment or upon discovery of the fraudulent reporting, whichever date is later.

(e) The board shall determine the applicability of the period of limitation in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error or omission.

(f) This section shall apply only to a county of the first class as described in Section 28020.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 2)(Applicable to Los Angeles County only)

§31541. Corrections of errors or omissions (Los Angeles)

(a) Subject to subdivisions (c) and (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member, if all of the following facts exist:

(1) The request, claim, or demand to correct the error or omission is made by the party seeking correction within a reasonable time after discovery of the right to make the correction, which in no case shall exceed six months after discovery of this right.

(2) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part. Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

(b) Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of the county or district, or this system.

(c) The duty and power of the board to correct mistakes, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 31540.

(d) The party seeking correction of an error or omission pursuant to this section has the burden of presenting documentation or other evidence to the board establishing the right to correction pursuant to subdivisions (a) and (b).

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same as they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any other provision of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a) and (b) as of the time that the correction actually takes place if the board finds any of the following:

(1) That the correction cannot be performed in a retroactive manner.

(2) That, even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a) and (b) cannot be adjusted to be the same, as they would have been if the error or omission had not occurred.

(3) That the purposes of this chapter will not be effectuated if the correction is performed in a retroactive manner.

(f) This section shall apply only to a county of the first class as described in Section 28020.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 3)(Applicable to Los Angeles County only)

§31541.1 Correction of prior retirement board decisions; time for filing application; application of section (Los Angeles)

(a) Subject to subdivisions (c), (d), and (e) of Section 31541, the board, upon any terms it deems just, may correct prior board decisions made between January 1, 2013, and December

31, 2015, that were based upon an error of law existing at the time of the decision in the determination of the effective date of disability retirement pursuant to Section 31724. A member seeking correction of errors and omissions pursuant to this section may file an application for correction to the board no later than one year from the date this section becomes operative.

(b) This section shall apply to a county of the first class as described in Section 28020 and 28022.

(Added by Stats. 2018, Ch. 97 (AB 2076), Sec. 1)

§31542. Compensation paid to enhance member's retirement benefit; procedure for assessment

(a) The board shall establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. If the board determines that compensation was paid to enhance a member's benefit, the member or the employer may present evidence that the compensation was not paid for that purpose. Upon receipt of sufficient evidence to the contrary, a board may reverse its determination that compensation was paid to enhance a member's retirement benefits.

(b) Upon a final determination by the board that compensation was paid to enhance a member's retirement benefit, the board shall provide notice of that determination to the member and employer. The member or employer may obtain judicial review of the board's action by filing a petition for writ of mandate within 30 days of the mailing of that notice.

(c) Compensation that a member was entitled to receive pursuant to a collective bargaining agreement that was subsequently deferred or otherwise modified as a result of a negotiated amendment of that agreement shall be considered compensation earnable and shall not be deemed to have been paid to enhance a member's retirement benefit.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 29)

§31542.5. Pay period for compensation reported to board; failure of county or district to report compensation

(a) When a county or district reports compensation to the board, it shall identify the pay period in which the compensation was earned regardless of when it was reported or paid. Compensation shall be reported in accordance with Section 31461 and shall not exceed compensation earnable, as defined in Section 31461.

(b) The board may assess a county or district a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that a county or district knowingly failed to comply with subdivision (a). A county or district shall be found to have knowingly failed to comply with subdivision (a) if the board determines that either of the following applies:

(1) The county or district knew or should have known that the compensation reported was not compensation earnable, as defined in Section 31461.

(2) The county or district failed to identify the pay period in which compensation earnable was earned, as required by this section.

(c) A county or district shall not pass on to an employee any costs assessed pursuant to subdivision (b).

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 30)

§31543. Audit of county or district by board

The board may audit a county or district to determine the correctness of retirement benefits, reportable compensation, and enrollment in, and reinstatement to, the system. During an audit, the board may require a county or district to provide information, or make available for examination or copying at a specified time and place, books, papers, data, or records, including, but not limited to, personnel and payroll records, as deemed necessary by the board.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 31)

Article 4
Membership
(Article 4 added by Stats. 1947, Ch. 424, Sec. 1)

§31550. Retirement association

Whenever this chapter becomes operative in any county a retirement association shall be organized.

(Added by Stats. 1947, Ch. 424)

§31551. Eligibility to membership; exclusion

The persons expressly declared to be ineligible to membership by this article shall not become members of the retirement association, and, except as expressly excluded, the persons enumerated in this article or the California Public Employees' Pension Reform Act of 2013 shall become members of the association.

Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, the Comprehensive Employment and Training Act of 1973 (Public Law 93-203), as amended, are excluded from membership. This exclusion shall not apply to active fire suppression personnel who are safety members pursuant to Sections 31469.3 and 31470.4.

(Amended by Stats. 1979, Ch. 115, Sec. 1, Effective June 15, 1979)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 15)

§31552. Automatic membership; waiver of membership

All existing officers and employees of the county become members of the association on the day the retirement system becomes operative, and thereafter each person entering the county employ becomes a member on the first day of the calendar month after his entrance into the service, unless otherwise provided by regulations adopted by the board. Such regulations may provide for waiver of membership by the prospective employee in the case of newly hired employees who have attained the age of 60. In all cases where there is such a waiver, said employee upon attaining the age of 70 shall thereafter be employed from year to year at the discretion of the county.

(Amended by Stats. 1965, Ch. 1668, Sec. 1)

§31552.1. Membership of existing officers and employees not members because of statute

On the first day of the calendar month after this section takes effect all existing officers and employees of the county, who, because of the provisions of Section 31552 prior to its amendment in 1953, were not members, become members on that day.

(Added by Stats. 1953, Ch. 789, Sec. 3)

§31552.2. Officers and employees who became members on first day of calendar month following expiration of 180 days after entry into service; prior service credit; contributions

All existing officers and employees of the county, now members of the retirement system, and who became employed by the county during that interim period when the law did not allow membership into the retirement system until the first day of the calendar month following the expiration of the 180 days after his entrance into service, shall be allowed to make contributions and receive credit for that period of time as prior county service. The contribution rate shall be as prescribed in Section 31641.5 and election to receive credit for such service shall be available until time of filing of notice of retirement from county service.

(Added by Stats. 1970, Ch. 705, Sec. 1)

§31552.4. Employees and officers described in Health and Safety Code §101851; eligibility for retirement benefits (Alameda)

Employees and officers described in Section 101851 of the Health and Safety Code shall not automatically become members of the retirement system of the health authority established pursuant to this chapter, and their eligibility for retirement benefits shall be established pursuant to the provisions of that section.

(Added by Stats. 2013, Ch. 311 (AB 1008), Sec. 2, Effective September 13, 2013, as an urgency statute)

§31552.5. Employees and officers of Kern County Hospital Authority; eligibility for membership in Kern County Employees' Retirement Association

(a) Except as provided in subdivision (b), employees and officers of the Kern County Hospital Authority, a public agency that is a local unit of government established pursuant to Chapter 5.5 (commencing with Section 101852) of Part 4 of Division 101 of the Health and Safety Code, shall not automatically become members of the Kern County Employees' Retirement Association, but shall have their eligibility for membership in the Kern County Employees' Retirement Association be established pursuant to the provisions of that chapter.

(b) An employee who is hired by the authority on or after the operative date of the act adding this subdivision shall be a member of the Kern County Employees' Retirement Association as provided in subdivisions (g) and (h) of Section 101853.1 of the Health and Safety Code.

(Added by Stats. 2014, Ch. 613 (AB 2546), Sec. 2)
(Amended by Stats. 2018, Ch. 53 (SB 866), Sec. 36)
(Amended by Stats. 2018, Ch. 405 (SB 846), Sec. 6)

§31553. Elective officers; filing declaration to become member; withdrawal

Elective officers become members of the retirement association on the first day of the calendar month following the filing of a declaration with the board to become a member, provided, however, that any such elective officer may, within 60 days after the expiration of the officer's term of office or within 60 days after the officer ceases to hold the office, rescind the declaration and withdraw from the retirement association. In such cases, all contributions paid by the member shall be refunded in the same manner as applicable to members terminating service.

(Amended by Stats. 1981, Ch. 329, Sec. 1)

§31554. Officers and attachés of superior court; persons included

All officers and attachés of the superior court established within the county, except judges and participants in any other pension system, become members of the association on the first day of the calendar month after the board of supervisors adopts by four-fifths vote a resolution providing for their inclusion. Thereafter each person entering such employ becomes a member on the first day of the calendar month following his entrance into the service of the court.

In this section "officer or attaché of the superior court" includes all commissioners, phonographic reporters who are paid salaries or per diems by the county and whose contributions are based upon such salaries or per diems, secretaries, stenographers, investigators, messengers, or other employees of the court.

(Amended by Stats. 1955, Ch. 372, Sec. 6)

§31556. Appropriations and deductions for court officers and attachés

The board of supervisors and all other county officers shall make the appropriations and

perform the duties specified in this chapter with reference to court officers and attachés in the same manner as specified for county or district officers or employees. The deductions provided for in this chapter shall be made from the salaries of such officers or attachés in the same manner as for officers or employees of the county or districts.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31557. Officers and employees of districts; inclusion in membership

All officers and employees of any district become members of the association on the first day of the calendar month after:

(a) In the case of districts for which the board of supervisors is the governing body, such body adopts by four-fifths vote a resolution providing for the inclusion of the district in the retirement association.

(b) In the case of districts for which the board of supervisors is not the governing body, the governing body adopts by a two-thirds vote, a resolution providing for the inclusion of the district in the retirement association and the board, by majority vote, consents thereto. Thereafter, each person entering such employment becomes a member on the first day of the calendar month following his entrance into the service. However, if prior to January 1, 1976, the governing body and the board of retirement have executed an agreement providing for the purchase of prior service, the agreement may be amended to provide that the date of membership in the retirement association for any officer or employee shall be the first day of the calendar month following the officer's or employee's entrance into district service.

Members may be withdrawn from the association in the manner provided in Section 31564.

(Amended by Stats. 1980, Ch. 430, Sec. 1, Effective July 11, 1980)

§31557.1. Officers and employees of Regents of the University of California; previous employees of county hospital; membership

Officers and employees of a district as defined in subdivision (g) of Section 31468, become members on the date specified in the agreement between the regents and the board of supervisors relating to the transfer to the regents of the hospital in which they are employed or of the obligation to provide professional medical services at the hospital in which they are employed. Notwithstanding Section 31564, if the agreement so provides, those employees shall cease to be members on the date of a referendum relating to coverage of those members under the Federal Old Age, Survivors, Disability, and Health Insurance Program in which less than a majority of those eligible employees voted in favor of that coverage.

(Amended by Stats. 1991, Ch. 99, Sec. 2)

§31557.2. Validation of action taken by governing body under section 31577; validation of membership

Any action heretofore taken by the governing body of a district under Section 31557, or under color of that section, is hereby confirmed and validated and made fully effective. Membership in the association of any officers and employees of any district who were included in the association by such action of the governing body, is hereby validated and confirmed and made fully effective as of the time of such inclusion.

(Added by Stats. 1959, Ch. 1676, Sec. 1, Effective July 8, 1959)

§31557.3. Retirement system; membership; inclusion of personnel previously in county service

On the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, any personnel appointed pursuant to Sections 31522.5, 31522.9, 31522.10, and 31529.9 who had previously been in county service shall continue to be members of

the system without interruption in service or loss of credit. Thereafter, each person entering employment with the district shall become a member of the system on the first day of the calendar month following his or her entrance into service.

(Added by Stats. 2002, Ch. 74 (AB 1992), Sec. 3)
(Amended by Stats. 2014, Ch. 244 (SB 673), Sec. 4)
(Amended by Stats. 2015, Ch. 223 (AB 1291), Sec. 3)

§31558. Time of becoming safety members; eligibility

All existing members of a pension system established pursuant to either Chapter 4 (commencing with Section 31990) or Chapter 5 (commencing with Section 32200) of this part and all employees eligible as safety members who at the time of entering service elected to become safety members, or who subsequently became members, shall become safety members and thereafter each person employed in a position, the principal duties of which consist of active law enforcement or active fire suppression or juvenile hall group counseling and group supervision, as defined in Sections 31469.3, 31469.4, 31470.2 and 31470.4, shall become a safety member on the first day of the calendar month following his or her entrance into the service. The sheriff and undersheriff shall become safety members on the first day of the calendar month following their entrance into the service. The marshal and assistant marshall shall become safety members on the first day of the calendar month following their appointment.

(Amended by Stats. 1986, Ch. 840, Sec. 1)

§31558.1. Time of becoming safety member; law enforcement or fire suppression personnel; contributions; credit for service

Notwithstanding any of the provisions of Section 31558 to the contrary, each person who, prior to July 1, 1969, was employed in a position, the principal duties of which consist of active law enforcement as defined in Section 31469.3 or active fire suppression as defined in Section 31470.4, who has continuously since his or her employment made the salary contributions required of a safety member, and who has continuously since his or her employment been employed in a position which would make such person eligible to become a safety member if he or she had not been over the age of 35 years at the time of his or her employment, shall become a safety member as of the first day of the calendar month following his or her original entrance into the service.

A member who meets the requirements of the preceding paragraph, except that he or she has not made the contributions required of a safety member, may receive credit for such services, as a safety member, when he or she has contributed, with interest to the date paid, the difference between contributions made and those which would have been required if he or she had been a safety member. Such additional contributions are to be made prior to retirement and notice of election to receive credit for service, as a safety member, pursuant to this section, shall be made to the retirement board prior to April 1, 1975.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make the provisions of the section applicable in that county.

(Amended by Stats. 1986, Ch. 840, Sec. 2)

§31558.2. Persons employed in active law enforcement; election to become safety member; credit for service; contributions

Notwithstanding any of the provisions of Section 31558 to the contrary, each person who, prior to the effective date of this section was employed in positions the principal duties of which consist of active law enforcement for not less than 10 years and who is employed by a county in a position which would make such person eligible to become a safety member at the time of his or her employment, may, if he or she so elects, become a safety member as of the first day of the calendar month following his or her entrance into county service.

A member may receive credit for such service, as a safety member, when he or she has contributed, with nearest to the date paid, the difference between contributions made and those which would have been made by the member if he or she had been a safety member. Such additional contributions shall be made prior to retirement.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in that county.

(Amended by Stats. 1986, Ch. 840, Sec. 3)

§31558.5. Time of becoming safety members; permanent employees engaged in active law enforcement (various)

All members employed by a county having a population in excess of 2,000,000 who are employed on and prior to January 1, 1958, whose duties are described in Section 31470.6 and who prior to that date file with the board a written election to become safety members, shall become safety members on January 1, 1958.

All members employed by a county having a population of 2,000,000 or less and in excess of 500,000, who are employed on and prior to January 1, 1960, whose duties are described in Section 31470.6 and who prior to that date file with the board a written election to become safety members, shall become safety members on January 1, 1960.

After January 1, 1958, each person not over 35 years of age when employed by a county having a population in excess of 2,000,000 in a position the principal duties of which are described in Section 31470.6, shall become a safety member on the first day of the calendar month following his entrance into the service.

After January 1, 1960, each person not over 35 years of age when employed by a county having a population of 2,000,000 or less and in excess of 500,000 in a position the principal duties of which are described in Section 31470.6, shall become a safety member on the first day of the calendar month following his entrance into the service

(Amended by Stats. 1959, Ch. 797, Sec. 2)

§31558.6. Time of becoming safety members; juvenile hall group counselors and group supervisors

Notwithstanding any of the provisions of Section 31558 to the contrary, each person who is employed in a position, the principal duties of which consist of juvenile hall group counseling and group supervision as defined in Section 31469.4, on the date the provisions of Section 31469.4 are made applicable in a county by the board of supervisors and who files with the board written election to become a safety member on or prior to one year after the date the provisions of Section 31469.4 are made applicable in a county by the board of supervisors, shall become a safety member.

Thereafter each person when employed in such positions, shall become a safety member on the first day of the calendar month following his or her entrance into the service.

(Amended by Stats. 1986, Ch. 840, Sec. 4)

§31558.8. Counties of the third class; eligibility of certain detectives or investigators in district attorney's office to become safety members; contributions; operation of section (San Diego)

Notwithstanding any of the provisions of Section 31558 to the contrary, a person over 35 years of age who is employed by a county of the third class, as established by Sections 28020 and 28024, as amended in 1971, as a detective or investigator in the office of the district attorney, which would make the person eligible to become a safety member if he or she had not been over the age of 35 years at the time of his or her employment, may, if he or she so elects, become a safety member as of the first day of the calendar month following his or her entrance

into county service regardless of age.

A member may receive credit for that service, as a safety member, when he or she has contributed, with interest to the date paid, the difference between contributions made and those which would have been made by the member if he or she had been a safety member. The additional contributions shall be made prior to retirement.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make this section applicable in the county.

(Added by Stats. 1985, Ch. 860, Sec. 1)

§31559. County or district assuming functions of public agency; effect on employees

Whenever a county or district subject to the provisions of this chapter takes over and assumes any of the functions of any other public agency, and because of such assumption all or any employees of such other public agency become employees of such county or district, any such employee whose principal duties consist of active law enforcement or active fire suppression, as defined in Sections 31469.3, 31470.2 and 31470.4, who, because of such transfer of functions, is employed in such a position in such county or district, shall become a safety member on the first day of the calendar month following his entrance into service.

(Amended by Stats. 1957, Ch. 2399, Sec. 10, Effective October 1, 1957)

§31560. Persons remaining safety members

A safety member shall remain a safety member only while the principal duties of his position consist of active law enforcement, active fire suppression or active lifeguard service as defined in Section 31469.3. While holding any other position in county service he shall remain a member but not a safety member.

(Amended by Stats. 1961, Ch. 1694, Sec. 4)

§31561. Temporary technical or professional employees ineligible

Any person employed under contract for temporary services requiring professional or highly technical skill is ineligible for membership.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31562. Elective officer not declaring intention to become member

Any elective officer who does not declare his intention to become a member of the retirement association as required by this chapter is ineligible to membership.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31563. Termination of membership if service as public officer or employee is forfeited upon conviction of certain felonies

Notwithstanding any other provision of law, a person ceases to be a member for any portion of his or her service as an elected public officer or as a public employee that is forfeited pursuant to Sections 7522.70, 7522.72, and 7522.74.

(Added by Stats. 2005, Ch. 322 (AB 1044), Sec. 3)

(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 3)

§31564. Withdrawal of district employees; petition; fund disposition; effective date

(a) All officers and employees of any district who have become members of the association as provided in Section 31557, may be withdrawn by a resolution of the governing body declaring all of the district's employees withdrawn from the association; provided, the governing body has first received a written petition signed by a majority of its officers

and employees requesting that the district's officers and employees be withdrawn from the association.

(b) Upon the adoption of any resolution to withdraw its members, all accumulated contributions held in the association shall be refunded to the district's employees upon the effective date of their withdrawal and in the same manner as the accumulated contributions would be refunded upon the termination of their employment by the district.

(c) Upon the adoption of any resolution to withdraw its members and where there are no existing retirees from the district, the district's contributions shall be transferred to another public retirement system that meets the requirement of a tax-qualified retirement plan under Section 401(a) of Title 26 of the United States Code.

(d) A refund, distribution, or transfer of contributions or other funds shall not be made to any employee or any district unless that action complies with the requirements of Section 401(a) of Title 26 of the United States Code.

(e) In the event of the transfer of district contributions to another public retirement system, the employee contributions shall also be transferred to the other public retirement system.

(f) The effective date of withdrawal of any resolution adopted pursuant to this section shall be at the end of the calendar month during which such resolution is adopted.

(Amended by Stats. 1969, Ch. 317, Sec. 1, Effective June 30, 1969)

(Amended by Stats. 2014, Ch. 740 (AB 2473), Sec. 5)

§31564.2. Liability of district upon termination of participation

(a) If a district's participation in the retirement system is terminated pursuant to the provisions of Section 31564, the district shall remain liable to the retirement system for the district's share of any unfunded actuarial liability of the system which is attributable to the officers and employees of the district who either have retired or will retire under the retirement system.

(b) Unless otherwise developed by an actuarial source and approved by the board of retirement, the amount of the district's liability shall be the unfunded actuarial liability of the entire system, computed as described below, multiplied by a fraction:

(1) The numerator of which is the total amount required to be contributed to the plan by the withdrawing district for the last five years ending prior to the withdrawal date.

(2) The denominator of which is the total amount required to be contributed to the plan by all participating employers for the last five years.

The plan's total unfunded actuarial liability for this purpose shall be calculated on the basis of the actuarial assumptions used in the plan's most recent actuarial valuation, except that all district members shall be assumed to terminate as of the date of withdrawal.

(c) The district's liability shall be paid in accordance with a schedule determined by the retirement board over a period no longer than the period over which the plan's remaining unfunded actuarial liability is being amortized.

(d) The funding of the retirement benefits for the employees of a withdrawing agency is solely the responsibility of the withdrawing agency or the board of supervisors. Notwithstanding any other provision of law, no contracting agency shall fail or refuse to pay the employer's contribution required by this chapter or to pay the employer's contribution required by this chapter within the applicable time limitations. In dealing with a withdrawing district, the board of retirement shall take whatever action needed to ensure the actuarial soundness of the retirement system.

(e) The Legislature finds and declares that this section is declaratory of existing law, to the extent this section provides that upon withdrawal from the retirement system, a district shall remain liable for its share of the unfunded actuarial liability of the system. This section is intended to define the method of calculating the district's share of that unfunded actuarial

liability.

(Added by Stats. 1998, Ch. 109 (AB 1766), Sec. 4)

§31564.5. Contract by governing body of district for additional appropriation to pay costs of system

Whenever the governing body of a district for which the board of supervisors is not the governing body adopts a resolution for the inclusion of such district in the retirement association, if, in the opinion of the board because of conditions peculiar to such district the contributions required from such district by this chapter are insufficient to pay the same proportion of the costs of the system as will be paid by the county, the board may require that such district contract with the board to appropriate additional sums. If, because of conditions peculiar to such district the contributions required from such district by this chapter are greater than necessary to pay the same proportion of the costs of the system as will be paid by the county, the board and such district may contract for lesser sums. Either of such contracts may provide, among other things, that whenever the board of supervisors makes an additional appropriation pursuant to Section 31454.5, the district also will make an additional appropriation calculated by a formula specified in such contract. All such districts are hereby authorized to enter into and perform such contracts.

(Added by Stats. 1957, Ch. 1387, Sec. 3)

§31565. Transfer of membership to state teachers' retirement system; withdrawal of contributions

Any member of a system established under this chapter who is employed in a status requisite for membership in the State Teachers' Retirement System, may elect to transfer his membership to that system. Any member who elects to transfer his membership pursuant to this section may also elect in writing to withdraw his accumulated contributions, and in such event he shall be paid all of his accumulated contributions in the county retirement system.

(Added by Stats. 1957, Ch. 1452, Sec. 1)

§31565.5. Election of employees of county superintendent of schools to remain members of county system

Any member of a system established under this chapter who ceases to be an employee of the county under the provisions of Section 1312 of the Education Code may elect as authorized in Section 1312 of the Education Code to remain a member of such system.

(Added by Stats. 1965, Ch. 717, Sec. 6, Effective June 18, 1965)

(Amended by Stats. 2021, Ch. 186 (SB 634), Sec. 13)

§31567. Member employed in active law enforcement or fire suppression position, election to become safety member; credit for service

Any member of a retirement system established under this chapter who is employed in a position, the principal duties of which consist of active law enforcement or active fire suppression as defined under Sections 31469.3, 31470.2 and 31470.4, and who, prior to 1955, had the right to elect to become a safety member of such system shall again have the right to elect to become a safety member. Notice of such election shall be given in writing to the board of retirement administering the system.

The member's status as a safety member shall be effective on the first day of the second month following that in which the notice of election is received by the board of retirement.

Such a member may elect to receive credit for service rendered as a member of such system, as if he had been a safety member commencing in 1955. Notice of such election shall be given in writing to the board of retirement no less than 30 days prior to the member's

retirement. The member shall receive credit for such service, as a safety member, if he contributes the difference between the member contributions actually made for that period of service and the contributions that he would have been required to make if he had been a safety member during that period. The member shall also contribute interest on the difference at the rates at which interest was credited on member contributions for each year of the period for which credit is sought.

An election under this section shall be irrevocable, and the additional contribution payments hereunder required, if not completed as specified, shall be forfeited to the retirement fund, and a forfeiting member shall then receive only general membership benefits. Additional contributions shall be made by lump sum payment or in such monthly payroll deduction amounts as determined by the board, but must be made prior to the member's retirement.

(Amended by Stats. 1969, Ch. 1247, Sec. 2)

Article 4.5

Big Bear Fire Agencies Pension Consolidation Act of 2018

(Article 4.5 added by Stats. 2018, Ch. 72 (AB 2004), Sec. 1, Effective July 9, 2018, as an urgency statute)

§31570. Legislative intent

It is the intent of the Legislature that this article authorize the Big Bear Fire Authority to assume all of the revenues, debts, obligations, and liabilities of the City of Big Bear Lake's safety plan, which covers the employees of the Big Bear Lake Fire Protection District.

§31571. Short title

This article shall be known, and may be cited, as the Big Bear Fire Agencies Pension Consolidation Act of 2018.

§31572. Definitions

For purposes of this article, the following definitions apply:

(a) "Authority" means the Big Bear Fire Authority, which is a joint powers authority established by the Big Bear City Community Services District and the Big Bear Lake Fire Protection District pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) in 2012.

(b) "City" means the City of Big Bear Lake.

(c) "City safety plan" means that portion of the city's retirement plan through the San Bernardino County Employees' Retirement Association that covers the safety employees of the fire protection district.

(d) "Fire protection district" means the Big Bear Lake Fire Protection District.

§31573. Termination of city safety plan; transfer to authority; rights, duties, and obligations

(a) On and after the effective date of a resolution of the Board of Retirement of the San Bernardino County Employees' Retirement Association consenting to membership of the authority's employees pursuant to subdivision (b) of Section 31557, all safety employees currently employed by the fire protection district as of that date shall be deemed to be employees of the authority, and all duties and obligations of the fire protection district in the employment relationship shall be assumed by the authority. The status of each employee deemed to be an employee of the authority pursuant to this section, with respect to membership in the retirement system, shall, in all respects, be as if the employee had remained

a member of the retirement system without any break in service or change of employer. The authority shall be deemed to be a "district," as defined in this chapter, and shall, in all respects, assume all of the rights, obligations, and status previously occupied by the city, with regard to the city safety plan, as a participating district in the retirement system, including, but not limited to, all of the following: the payment of employer contributions, the payment of unfunded actuarial liability, the withholding of employee contributions, the reporting of compensation earnable and pensionable compensation, record retention and audit compliance, the enrollment of eligible employees as members of the retirement system, compliance with restrictions on the employment of retired persons, and the pickup of employee contributions pursuant to Section 414(h)(2) of the Internal Revenue Code and any agreement or resolution implementing that section.

(b) The termination of the city safety plan shall not trigger withdrawal liability pursuant to Section 31564.2. The authority shall assume the prior obligations of the city safety plan for the payment of unfunded actuarial liability, which shall continue to be included in contribution rates calculated and approved pursuant to this chapter, including, but not limited to, Sections 31453, 31453.5, 31454, 31581, and 31585, as if no change in the participating employer had occurred.

(c) The authority shall succeed to the rights, duties, and obligations of the city safety plan with respect to its replacement benefits program pursuant to Chapter 3.9 (commencing with Section 31899). The rights of each member of the retirement system to participate in the replacement benefits program, as those rights exist at the time of the transfer of rights, duties, and obligations to the authority pursuant to this section, whether the member is actively employed, deferred, or retired, shall continue as if there had been no change in the status of the employer. The transfer of rights, duties, and responsibilities shall not be deemed to be the creation of a new replacement benefit program and the continuation of employees' rights pursuant to this section shall not be deemed the offering of a new plan to any employee for purposes of Section 7522.43 or subdivision (c) of Section 31899.

Article 5

Financial Provisions

(Article 5 added by Stats. 1947, Ch. 424, Sec. 1)

§31580. Annual appropriation for administrative expenses

The board of supervisors shall appropriate annually from the proper county funds the amount necessary to defray the entire expense of administration of the retirement system based upon budget estimates prepared by the treasurer.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31580.1. Contribution from districts; costs of administering retirement system; penalty assessments for delinquencies

The board may include each year in the contribution required of a district a reasonable amount, which may differ from district to district, to cover the costs of administering its retirement system as such costs affect the active and retired employees of that district. The board may also assess a district a reasonable amount to cover costs incurred because of the district's failure to submit reports and forward contributions on a timely basis.

(Added by Stats. 1972, Ch. 545, Sec. 1)

§31580.2. Annual budget; expenses of administration; charges against earnings of fund; expenses for computer products and support services not considered costs of administration

(a) In counties in which the board of retirement, or the board of retirement and the board of investment, have appointed personnel pursuant to Section 31522.1, 31522.5, 31522.7, 31522.9, 31522.10, or 31522.11, the respective board or boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. The expense incurred in any year may not exceed the greater of either of the following:

(1) Twenty-one hundredths of 1 percent of the accrued actuarial liability of the retirement system.

(2) Two million dollars ($2,000,000), as adjusted annually by the amount of the annual cost of living adjustment computed in accordance with Article 16.5 (commencing with Section 31870).

(b) Expenditures for computer software, computer hardware, and computer technology consulting services in support of these computer products shall not be considered a cost of administration of the retirement system for purposes of this section.

(Added by Stats. 1973, Ch. 269, p. 665, Sec. 2)
(Amended by Stats. 1976, Ch. 253, p. 526, Sec. 1)
(Amended by Stats. 1979, Ch. 55, p. 136, Sec. 2)
(Amended by Stats. 1983, Ch. 433, Sec. 1)
(Amended by Stats. 1989, Ch. 1300, Sec. 2)
(Amended by Stats. 1990, Ch. 419 (AB 2819), Sec. 5)
(Amended by Stats. 2002, Ch. 74 (AB 1992), Sec. 4)
(Amended by Stats. 2007, Ch. 327 (AB 1124), Sec. 2)
(Amended by Stats. 2010, Ch. 663 (AB 609), Sec. 1)
(Amended by Stats. 2014, Ch. 244 (SB 673), Sec. 5)
(Amended by Stats. 2015, Ch. 223 (AB 1291), Sec. 4)
(Amended by Stats. 2021, Ch. 26 (AB 761), Sec. 3)

§31580.3. (Repealed January 1, 2013) Expenditures for software, hardware, and computer technology

(Added by Stats. 2003, Ch. 95 (AB 374), Sec. 1, Repealed by its own terms January 1, 2007)
(Added by Stats. 2007, Ch. 327 (AB 1124), Sec. 3)
(Repealed by Stats. 2010, Ch. 663 (AB 609), Sec. 2)

§31581. County contribution; rate

After the date a system becomes operative the board of supervisors shall, in the preparation and adoption of the county budget, add to the appropriation for salaries and wages and include therein an appropriation determined pursuant to Sections 31453, 31453.5 and 31454. Until such determination the additional appropriations shall equal 23.77 percent of the total compensation provided for all safety members covered by Article 7.5 (commencing with Section 31662) and 8.85 percent of the total compensation provided for all other employees who are members of the retirement association.

(Amended by Stats. 1971, Ch. 224, Sec. 2, Effective June 28, 1971)

§31581.1. Election to pay up to one-half of contributions normally required of members; resolution by board of supervisors

(a) The board of supervisors may elect to pay up to one-half of the contributions

normally required of members for any period of time designated in the resolution providing for such payment. The payments shall not become part of the accumulated contributions of the member. These payments may be made with respect to employees in one or more bargaining units irrespective of whether they are made with respect to other employees.

(b) This section shall not apply to members who are subject to Section 7522.30.

(Added by Stats. 1976, Ch. 1420, Sec. 2)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 16)

§31581.2. Agreement to pay any portion of contributions normally required of members; resolution not to create vested rights

(a) The board of supervisors or the governing body of the district may agree to pay any portion of the contributions required to be paid by a member. All payments shall be in lieu of wages and shall be reported simply as normal contributions and shall be credited to member accounts.

(b) The enactment of a resolution pursuant to this section shall not create vested rights in any member. The board of supervisors or the governing body of the district may amend or repeal the resolution at any time, subject to the provisions of Sections 3504 and 3505, or any similar rule or regulation of the county or district.

(c) This section shall not apply to members who are subject to Section 7522.30.

(Amended by Stats. 1989, Ch. 202, Sec. 1)

(Amended by Stats. 1997, Ch. 223, (AB 1598), Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 17)

§31582. Transfer from appropriation to retirement fund; amount; advance payment

(a) The county auditor shall certify to the board at the end of each month or at the end of each pay period the compensation earnable, as defined in Section 31461, and the pensionable compensation, as defined in Section 7522.34, paid to all members of the retirement association and the auditor shall thereupon transfer from the appropriation to the retirement fund the applicable percentage of this amount determined pursuant to Sections 31453, 31453.5, and 31454. Until that determination, the amount of the transfer shall be 23.77 percent of the compensation earnable, as defined in Section 31461, and the pensionable compensation, as defined in Section 7522.34, paid to all safety members and 8.85 percent of the compensation earnable, as defined in Section 31461, and the pensionable compensation, as defined in Section 7522.34, paid to all other members.

(b) The board of supervisors may authorize the county auditor to make an advance payment of all or part of the county's estimated annual contribution to the retirement fund, provided that the payment is made no later than 30 days after the commencement of the county's fiscal year. This subdivision does not prevent the board of supervisors from authorizing the county auditor to make an advance payment for the estimated annual county contributions for an additional year or partial year if the advance payment is made no later than 30 days after the commencement of the county fiscal year for which the advance payment is made. If the advance is only a partial payment of the county's estimated annual contribution, remaining transfers to the retirement fund shall be made at the end of each month or at the end of each pay period until the total amount required for the year is contributed. Transfers shall be adjusted at the end of the fiscal year to reflect the actual contribution required for that year.

(c) A district subject to Section 31585 may also authorize an advance payment of all or part of the district's estimated annual contribution to the retirement fund, provided that the payment is made no later than 30 days after the commencement of the district's fiscal year. This subdivision does not prevent the governing body of a district from authorizing the district to

make an advance payment for the estimated annual district contributions for an additional year or partial year if the advance payment is made no later than 30 days after the commencement of the district fiscal year for which the advance payment is made. If the advance is only a partial payment of the district's estimated annual contribution, payments to the retirement fund shall be made at the end of each month or at the end of each pay period until the total amount required for the year is contributed. This amount shall be adjusted at the end of the fiscal year to reflect the actual contribution required for that year.

(Amended by Stats. 1979, Ch. 95, Sec. 2)
(Amended by Stats. 2000, Ch. 203 (AB 2841), Sec. 1)
(Amended by Stats. 2010, Ch. 158 (SB 1479), Sec. 2)
(Amended by Stats. 2017, Ch. 76 (SB 671), Sec. 1)

§31582.1. Certification requirements of Section 31582; provisions to forego

In any county in which the board of retirement so provides, the county auditor shall not be required to make the certifications required by Section 31582.

(Added by Stats. 1974, Ch. 1317, Sec. 1)

§31584. Failure of board to make appropriations or transfers

The board of supervisors shall make the appropriations, and if it fails or neglects to make the appropriations, the county auditor shall transfer from any money available in any fund in the county treasury the sums specified by this chapter and this transfer shall have the same force and effect as it would have had if the required appropriation had been made by the board of supervisors.

(Amended by Stats. 1973, Ch. 517, Sec. 1)

§31585. Contributions by districts

When any district becomes a part of the retirement system, the same appropriations and transfers of funds shall be made as those required of the county in this article, and such charges are legal charges against the funds of the district.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31585.1. Election of employee paid from county school service fund to remain member of county system

When an employee paid from the county school service fund elects to remain a member of this retirement system as authorized by Section 1313 of the Education Code, the same appropriations, transfers, and disposition of funds shall be made as those required of the county by this article, and those charges are legal charges against the funds of the county school service fund.

(Added by Stats. 1965, Ch. 717, Sec. 7, Effective June 18, 1965)
(Amended by Stats. 2006, Ch. 538 (SB 1852), Sec. 307)

§31585.2. Appropriations and transfers of funds made pursuant to Section 31585 in Orange County; legal charges against district funds; expenses of administration (Orange)

On and after the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, the district's appropriations and transfers of funds made pursuant to Section 31585 shall be legal charges against the funds of the district and shall be part of the expense of administration of the retirement system pursuant to Section 31580.2.

(Added by Stats. 2002, Ch. 74 (AB 1992), Sec. 5, Effective June 27, 2002, as an urgency statute)

§31586. Payments into fund as obligations of county or district

All payments of the county or of any district into the retirement fund, whether made pursuant to this article or made pursuant to law, are obligations of the county or district.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31587. Application of contributions

The board shall apply the contributions of the county or district to its obligations under the system in the order and amounts as follows:

First, in an amount equal during each fiscal year to the liability accruing to the county or district because of service rendered during such year and on account of service and disability pensions, in an amount determined by the actuarial valuation as interpreted by the actuary.

Second, in an amount equal during each fiscal year to the payments made from contributions by the county or district during the year for death benefits.

Third, the balance of such contributions on the liabilities accrued on account of prior service benefits.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31588. "Employees retirement fund"

A trust fund account to be designated as "employees retirement fund" shall be opened upon the books of the retirement board, or treasurer and auditor if authorized by the board, of any county adopting this retirement system.

The "employees retirement fund" shall be a trust fund created or continued and administered in accordance with this chapter, solely for the benefit of the members and retired members of the system and their survivors and beneficiaries.

Nothing in this section shall be construed to prohibit the retirement board paying administrative costs, already authorized or to be authorized, or to prohibit the transfer of surplus funds to county advance reserves.

(Amended by Stats. 1979, Ch. 427, Sec. 1)

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 4.5)

§31588.1. Deferred yield adjustment account

There is hereby established in the County Employees' Retirement System a deferred yield adjustment account which shall be increased by the sale or disposition of any debt securities at less than book value and shall be decreased by the sale or disposition of debt securities at more than book value. At the end of each year, a portion of the balance of this account shall be offset against the investment income for that year. The annual portion of the balance to be offset shall be proportional to the reciprocal of the average remaining life of the bonds sold. The amount of this account shall be included in any accounting or actuarial computations or listing of assets. In any year in which the gains on the sales of debt securities exceed the discounts realized on the sales of such securities, the excess shall be used to reduce the balance of the account.

This section shall not be operative in any county until such time as the board shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1974, Ch. 1366, Sec. 1)

§31588.2. Expending of funds; limitation to administration of system, investments, benefits to members

Notwithstanding any other provision of law, no funds in the retirement fund shall be

expended for any purpose other than the expense of administration of the system, investments for the benefit of the system, and the provision of benefits to the members and retired members of the system and their survivors and beneficiaries.

(Added by Stats. 1983, Ch. 923, Sec. 3)

§31589. Accounting as to transfers or payments to system

All transfers or payments to the retirement system and all withdrawals and other cash transactions, shall be accounted upon the books of the retirement board, or treasurer and auditor, if authorized by the board, in and out of the retirement fund, in the same manner as county transactions.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 5)

§31589.1. Trade of bonds for similar bonds

There is hereby established for accounting purposes in the County Employees Retirement Law of 1937 the following procedure for treating a trade of bonds for similar bonds. Any loss or gain attributable to a trade of a like bond in the portfolio of any retirement system adopted pursuant to this chapter may be amortized over the life of the bond traded out by adding to or subtracting from the discount or premium attributable to the bond traded in. Like bonds for purposes of this section are considered to be bonds which will mature within seven years of the life of the bond traded out. Bonds to be traded must be of the first four grades. The fact that one bond may be a debenture and another a mortgage bond, or that the bonds may have different rates of return, shall not keep them from being like bonds.

This section shall not be operative in any county until such time as the board shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1974, Ch. 1366, Sec. 2)

§31590. Warrants, checks, and electronic fund transfers; signature and authorization; validity; direct deposit of electronic fund transfers; authorization of benefit payments issuance by banks

(a) All warrants, checks, and electronic fund transfers drawn on the retirement fund shall be signed or authorized by at least two board officers or employees, designated by the board or by the treasurer if designated by the board. If the treasurer is designated by the board, the board shall also designate the auditor to sign or authorize warrants, checks, and electronic fund transfers. The authorization may be by blanket authorization of all warrants, checks, or electronic fund transfers appearing on a list or register, or may be by a standing order to draw warrants, checks, or electronic fund transfers, which shall be good until revoked. If the treasurer and auditor are designated by the board, a warrant, check, or electronic fund transfer is not valid until it is signed or authorized, numbered, and recorded by the county auditor, except as provided in subdivision (c).

(b) Any person entitled to the receipt of benefits may authorize the payment of the benefits to be directly deposited by electronic fund transfer into the person's account at the financial institution of the person's choice under a program for direct deposit by electronic transfer established by the board or treasurer if authorized by the board. The direct deposit shall discharge the system's obligation in respect to that payment.

(c) The board may, or, if authorized by the board, the treasurer shall, authorize a trust company or trust department of any state or national bank authorized to conduct the business of a trust company in this state or the Federal Reserve Bank of San Francisco or any branch

thereof within this state, to process and issue payments by check or electronic fund transfer.

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 6)

(Amended by Stats. 1996, Ch. 493 (SB 792), Sec. 5)

§31591. Interest credits; rate; termination of interest on cessation of membership

(a) Regular interest shall be credited semiannually on June 30th and December 31st to all contributions in the retirement fund which have been on deposit for six months immediately prior to that date. Interest at the rate of 2 ½ percent per annum, until otherwise determined by the board, compounded semiannually, shall be used in the calculation of benefits under any mortality table adopted by the board of supervisors.

(b) No interest shall be credited to a member's account after the membership of the member in the retirement association has ceased, except under the following circumstances:

(1) The former member has left his or her accumulated contributions in the retirement fund and has either elected in writing a deferred retirement allowance, or is eligible to so elect under Section 31700 but has failed to do so.

(2) The surviving spouse of a deceased member or the legally appointed guardian of the member's unmarried children under age 18 has elected to leave a death benefit on deposit as provided for in Section 31781.2.

(3) The former member, regardless of service, has left his or her accumulated contributions in the retirement fund and has not terminated employment.

(Amended by Stats. 1995, Ch. 457 (AB 847), Sec. 1)

(Amended by Stats. 1997, Ch. 43 (SB 419), Sec. 1)

§31592. Excess interest as reserve against contingencies

Earnings of the retirement fund during any year in excess of the total interest credited to contributions and reserves during such year shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments and other contingencies, except as provided in Sections 31529.5 and 31592.2.

(Amended by Stats. 1977, Ch. 202, Sec. 2)

§31592.2. Excess interest; disposition

(a) In any county, earnings of the retirement fund during any year in excess of the total interest credited to contributions and reserves during such year shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments, and other contingencies, except that, when such surplus exceeds 1 percent of the total assets of the retirement system, the board may transfer all, or any part, of such surplus in excess of 1 percent of the said total assets into county advance reserves for the sole purpose of payment of the cost of the benefits described in this chapter.

(b) Where the board of supervisors has provided for the payment of all, or a portion, of the premiums, dues, or other charges for health benefits, Medicare, or the payment of accrued sick leave at retirement to or for all, or a portion, of officers, employees, and retired employees and their dependents, from the county general fund or other sources, the board of retirement may authorize the payment of all, or a portion, of payments of the benefits described in this subdivision from the county advance reserves. This payment shall comply with the requirements of Section 401 of Title 26 of the United States Code. Payment may be made directly from the county advance reserves for the benefits described in Section 31691.1.

(Amended by Stats. 1980, Ch. 1116, Sec. 1, Effective September 26, 1980)

(Amended by Stats. 2014, Ch. 740 (AB 2473), Sec. 6)

§31592.3. Excess earnings; reserve; transfer to increase retirement allowance

In any county, earnings of the retirement fund, in excess of the total interest credited to contributions and reserves shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments, and other contingencies, except that when the total amount in the reserve exceeds 1 percent of the total assets of the retirement system, the board may transfer all or any part of such reserve in excess of 1 percent of the total assets into a special fund which shall be used for the sole purpose of providing an increase in monthly retirement allowance pursuant to Section 31681.7 or Section 31739.4. In the event the amount credited to the special fund is not sufficient to pay the entire amount of the increase provided for by Section 31681.7 or Section 31739.4 then the amount of the increase shall be reduced in proportion to the amount of the balance on hand in the special fund at the close of the fiscal year preceding the fiscal year during which such increase is operative.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make the provisions of this section applicable in such county. The board of supervisors may in such ordinance provide that the increase in monthly retirement allowance provided for by Section 31681.7 or 31739.4 shall be effective only subject to the provisions of this section.

(Amended by Stats. 1968, Ch. 94, Sec. 1, Effective May 10, 1968)

§31592.4. Excess earnings; treatment as appropriations, transfers and contributions by county and applicable districts; "excess earnings" defined; compliance with federal and state income tax laws; operation of section

(a) The amount of excess earnings available at the end of a fiscal year of the retirement fund, shall, subject to the limitations in this section, be treated in the immediately succeeding fiscal year, for all purposes under this chapter, as appropriations, transfers, and contributions made to the retirement fund by the county and applicable districts. That treatment shall occur only to the extent that, in the immediately succeeding fiscal year, the county and applicable districts pay for an equal amount of health benefits for members heretofore or hereafter retired and their dependents or make contributions in an equal amount to an account established under Section 401(h) of Title 26 of the United States Code solely for the purpose of providing health benefits for retired members, their spouses, and dependents, and for the associated administrative and investment expenses.

(b) For purposes of this section, “excess earnings” means earnings of the retirement fund at the end of any fiscal year that exceed the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(c) The board of supervisors or the board of retirement shall take any actions necessary and appropriate to ensure that the program provided by this section complies with all applicable federal and state income tax laws, including, but not limited to, establishing rules and procedures for establishing and maintaining an account under Section 401(h) of Title 26 of the United States Code.

(d) In accordance with Section 401(h) of Title 26 of the United States Code and Section 1.401-14(c) of the Code of Federal Regulations:

(1) The retirement system shall specify the medical benefits that will be available and shall set out the amount that will be paid.

(2) Medical benefits shall be subordinate to the retirement benefits when added to any life insurance benefits.

(3) A separate account shall be maintained for contributions to fund the medical benefits.

(4) The funds in the separate account may be invested with the funds for retirement benefits and the earnings shall be allocated to each account in a reasonable manner.

(5) Amounts contributed for medical benefits shall be reasonable and ascertainable.

(6) No part of the medical benefits account may be used for or diverted to any purpose other than providing medical benefits and paying necessary or appropriate expenses for the administration of the medical benefits account.

(7) Any amounts remaining in the medical benefits account after satisfaction of all medical benefits liabilities for all members, their spouses, and dependents shall be returned to the employer.

(8) If a member's interest in the medical benefits account is forfeited prior to plan termination, an amount equal to the forfeiture shall reduce employer contributions to fund the account.

(e) Except to the extent allowed by Sections 401 and 420 of Title 26 of the United States Code, and related federal regulations, assets shall not be transferred or otherwise paid from the funds held by the retirement system for retirement benefits to a medical benefits account. Assets shall not be transferred or otherwise paid from a medical benefits account to the funds held by the retirement system for retirement benefits.

(f) This section shall not be operative in any county until the board of supervisors and the board of retirement of the county, by resolution adopted by a majority vote of each board, make this section operative in the county.

(g) This section is not intended, and shall not be construed to, affect the validity of any agreement entered into by a county and a retirement association whereby a county has agreed to provide and fund a health insurance program for retired employees and their dependents for hospital services, medical services, dental services, and optical services, prior to the effective date of this section.

(h) This section establishes a method of providing health benefits for retired members, their spouses, and dependents to the extent allowed under Sections 31592.2 and 31691. This section does not authorize duplicate benefits.

(i) This section may be made applicable in any county that has adopted Article 5.5 (commencing with Section 31610), in which case the Supplemental Retiree Benefits Reserve shall be substituted for the excess earnings described in this section. This section also may be made applicable to any arrangement established under Article 8.6 (commencing with Section 31694).

(Added by Stats. 1992, Ch. 733, Sec. 1, Effective January 1, 1993)

(Amended by Stats. 2014, Ch. 740 (AB 2473), Sec. 7)

§31592.5. Notice to organization recognized by board as representing retired county or district employees of proposed changes to retirement benefits or use or uses of excess retirement system funds

The board shall provide to any recognized retiree organization reasonable advance notice of any proposed changes to the retirement benefits offered by the system or the use or uses of excess funds of the retirement system. The organization shall have a reasonable opportunity to comment prior to any formal action by the board on the proposed changes.

(Amended by Stats. 2012, Ch. 178 (SB 1382), Sec. 4)

(Added by Stats. 2003, Ch. 191 (SB 270), Sec. 1 as G.C. Section 31537.

Renumbered by Stats. 2004, Ch. 441 (AB 979), Sec. 2)

§31592.6. Board assistance in distributing communications to members; reasonable fee for mailings

In order for a recognized retiree organization to fulfill its obligations to the retired members of the system and to communicate with them, upon the organization's request the board shall cooperate with and assist the organization in distributing communications regarding membership in and retiree benefit programs available through the organization to all or a portion of those retired members. The content of those communications shall be wholly the responsibility of the recognized retiree organization, and the board shall not have any liability for the content of those communications. Cooperation and assistance in distribution may consist of combined or separate mailings. The board may charge a reasonable fee for those mailings, which may not exceed the actual costs to the system, including staff time for preparation of the mailings.

(Added by Stats. 2012, Ch. 178 (SB 1382), Sec. 5)

§31593. Audit and report

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

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

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

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Repealed and added by Stats. 1998, Ch. 109 (AB 1766), Sec. 5 and 6)

§31594. Investment of funds

It is the intent of the Legislature, consistent with the mandate of the voters in passing Proposition 21 at the June 5, 1984, Primary Election, to allow the board of any retirement system governed by this chapter to invest in any form or type of investment deemed prudent by the board pursuant to the requirements of Section 31595. It is also the intent of the Legislature to repeal, or amend as appropriate, certain statutory provisions, whether substantive or procedural in nature, that restrict the form, type, or amount of investments that would otherwise be considered prudent under the terms of that section. This will increase the flexibility and range of investment choice available to these retirement systems, while ensuring protection of the interests of their beneficiaries.

(Repealed and added by Stats. 1984, Ch. 1738, Sec. 5, Effective September 30, 1984)

§31595. Control of investments; authority to invest assets; discharge of duties

The board has exclusive control of the investment of the employees retirement fund. The assets of a public pension or retirement system are trust funds and shall be held for the

exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system. Except as otherwise expressly restricted by the California Constitution and by law, the board may, in its discretion, invest, or delegate the authority to invest, the assets of the fund through the purchase, holding, or sale of any form or type of investment, financial instrument, or financial transaction when prudent in the informed opinion of the board.

The board and its officers and employees shall discharge their duties with respect to the system:

(a) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system.

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(c) Shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.

(Repealed and added by Stats. 1984, Ch. 1738, Sec. 7, Effective September 30, 1984)

§31595.1. County treasurer; control of retirement system funds

(a) The board may authorize the treasurer to control and safely keep some or all of the moneys of the retirement system. If authorized, the treasurer may invest and reinvest the moneys, and may from time to time sell any securities belonging to the system and may invest and reinvest the proceeds therefrom. An investment in or sale of securities shall not be made except upon the authorization of the board.

(b) The board, in lieu of acting pursuant to subdivision (a), may delegate to another entity some or all of the powers prescribed in that subdivision.

(Repealed and added by Stats. 1984, Ch. 1738, Sec. 9, Effective September 30, 1984)

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 7)

§31595.9. Investments in repurchase agreements or reverse repurchase agreements

Notwithstanding the provisions of Section 31595, in addition to other investments authorized by this article, funds received by the county treasurer not required for current disbursements may be invested in repurchase agreements or reverse repurchase agreements of any securities authorized by this article.

For purposes of this section, "repurchase agreement" means a purchase of securities by the board pursuant to an agreement by which the seller will repurchase the securities on or before a specified date and for a specified amount.

For purposes of this section, "reverse repurchase agreement" means a sale of securities by the board pursuant to an agreement by which the board will repurchase the securities on or before a specified date and for a specified amount.

(Added by Stats. 1983, Ch. 534, Sec. 2)

§31595.41. Validation of acts; exchange-traded call options

All acts made or done by the board or its officers and employees, on or after January 1, 1983, and until the effective date of this section, with respect to exchange-traded call options and related matters, which would have been valid if Section 31595.4, as amended by Section 1 of the act which enacts this section, had been in effect at the time the acts were made or done are hereby ratified, confirmed, and validated.

(Added by Stats. 1983, Ch. 130, Sec. 2)

§31596. Sale of securities; treasurer's duties and liabilities; custodian of securities

(a) When securities belonging to or held for the retirement association are sold, the county treasurer shall deliver the securities to the purchaser upon receiving the proceeds, and may execute any and all documents necessary to transfer title. The duties imposed upon the county treasurer by this article are a part of his or her official duties, for the faithful performance of which he or she is liable on his or her official bond.

(b) The board may, or if authorized by the board, the treasurer shall authorize a state or federally chartered depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or any trust company licensed under state or federal law to conduct the business of a trust company or any Federal Reserve Bank, to act as custodian of any securities owned by the retirement association. In that case, the duties imposed by subdivision (a) upon the county treasurer shall instead be performed by the board and shall be included in any agreement for custodial services. Any of these banks or trust companies may be authorized to collect the income from the securities and deposit the proceeds in an account established by the board for the retirement association.

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 8)

(Amended by Stats. 1999, Ch. 771 (AB 731), Sec. 1)

§31596.1. Expenses of investing moneys

The expenses of investing its moneys shall be borne solely by the system.

The following types of expenses shall not be considered a cost of administration of the retirement system, but shall be considered as a reduction in earnings from those investments or a charge against the assets of the retirement system as determined by the board:

(a) The costs, as approved by the board, of actuarial valuations and services rendered pursuant to Section 31453.

(b) The compensation of any bank or trust company performing custodial services.

(c) When an investment is made in deeds of trust and mortgages, the fees stipulated in any agreement entered into with a bank or mortgage service company to service such deeds of trust and mortgages.

(d) Any fees stipulated in an agreement entered into with investment counsel for consulting or management services in connection with the administration of the board's investment program, including the system's participation in any form of investment pools managed by a third party or parties.

(e) The compensation to an attorney for services rendered pursuant to Section 31607 or legal representation rendered pursuant to Section 31529.1.

(Amended by Stats. 1992, Ch. 1047, Sec. 3, Effective January 1, 1993)

§31597. Annual financial statement

Before June 30th of each year the retirement board shall file in the office of the county auditor and with the board of supervisors a sworn statement that shall exhibit the financial condition of the retirement system at the close of the preceding December 31st and its financial transactions for the year ending on that day.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 9)

(Amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 4)

§31597.1. Alternative financial statement; applicability

Before December 31 of each year, the retirement board shall file in the office of the county auditor and with the board of supervisors a sworn statement that shall exhibit the

financial condition of the retirement system at the close of the preceding June 30th and its financial transactions for the fiscal year ending that day. This section is not operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes the provisions of this section applicable in the county. After the filing of the first fiscal year accounting under this section, the provisions of Section 31597 do not apply in the county.

(Added by Stats. 1979, Ch. 122, Sec. 2)

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 10)

(Amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 5)

§31597.2. Alternative financial statement; filing

In those counties in which the retirement board has authorized the treasurer to control and hold the assets of the retirement system pursuant to subdivision (a) of Section 31595.1, the treasurer shall be responsible for filing the statement required by Section 31597 or Section 31597.1, as applicable.

(Added by Stats. 1995, Ch. 584 (AB 1021), Sec. 11)

§31598. Preparation of annual statement

The annual statement shall be prepared in accordance with generally accepted accounting principles on the basis of pronouncements of the Government Accounting Standards Board or its successor organization.

(Repealed by Stats. 1996; added by Stats. 1996, Ch. 680 (SB 1877), Sec. 10 and 11, respectively)

§31599. Records of contributions

In addition to other records and accounts, the retirement board, or the treasurer if authorized by the board, shall keep records and accounts as are necessary to show at any time:

(a) The total accumulated contributions of members.

(b) The total accumulated contributions of retired members less the annuity payments made to the members.

(c) The accumulated contributions of the county or district held for the benefit of members on account of service rendered as members of the retirement system.

(d) All other accumulated contributions of the county or district, including the amounts available to meet the obligation of the county or district on account of benefits granted to retired employees and on account of prior service of members.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 12)

§31600. Benefits payable monthly; exception

A pension, annuity, or retirement allowance is payable in equal monthly installments, but a smaller pro rata amount may be paid for part of a month when the pension, annuity, or retirement allowance begins after the first day of the month or ends before the last day of the month.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31601.1. Investments in realty; counties with board of investments

In counties having a board of investments pursuant to Section 31520.2, no investment shall be made in real property unless it is approved by six votes of the board or, where a county board of supervisors or a county board of education has a material interest in the property unless it is approved by nine votes of the board.

(Amended by Stats. 1984, Ch. 1738, Sec. 19, Effective September 30, 1984)

§31602. Home loan program; investment of funds

Notwithstanding any other provision of the law, the board of retirement, or, in counties that have established a board of investments, the board of investments, may establish a program utilizing the retirement fund to assist system members and annuitants, through financing, to obtain homes in this state. The board shall adopt regulations governing the program which shall, among other things, provide:

(a) That home loans be made available to currently employed members and annuitants for the purchase of single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, single-family cooperative apartments, and single-family condominiums.

(b) That private lending institutions in this state shall originate and service its home loans pursuant to agreements entered into between those institutions and the board.

(c) That the recipients of the loans occupy the homes as their permanent residence in accordance with the rules and regulations established by the board.

(d) That its home loans shall be available only for the purchase or refinancing of homes in this state and that under no condition shall a member or annuitant have more than one outstanding loan.

(e) That the amount and length of the loans shall be pursuant to a schedule periodically established by the board which shall provide a loan to value ratio of: (1) for the first loan, except for three-family dwellings and four-family dwellings, a maximum of 95 percent of the first loan; (2) for the first loan on three-family dwellings and four-family dwellings, a maximum of 90 percent of the first loan; and (3) for each additional loan, a maximum of 80 percent of each additional loan. The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2 of the Insurance Code in an amount so that the unguaranteed portion of the loan does not exceed 75 percent of the market value of the property together with improvements thereon.

(f) That there may be prepayment penalties assessed on its loan in accordance with the rules and regulations established by the board.

(g) That the criteria and terms for its loans shall provide the greatest benefit to members and annuitants consistent with the financial integrity of the program and the sound investment of the retirement fund.

(h) Any other terms and conditions as the board shall deem appropriate.

(Amended by Stats. 1991, Ch. 1091, Sec. 58)

§31603. Loans

The board of retirement or the board of investments, as applicable, may obtain a loan and pledge a portion of the assets of the retirement fund as security for the repayment of the loan if the board finds all of the following:

(a) An emergency exists affecting the national banking system or financial markets.

(b) The emergency prevents the association from readily accessing its funds.

(c) The loan is necessary to promptly deliver benefits when due.

The assets of the retirement fund pledged as security for the loan shall be subject to execution and other processes of the court only in connection with a proceeding to enforce the loan. The costs associated with securing and repaying the loan, including interest, shall be a charge against investment earnings of the fund.

(Added by Stats. 2003, Ch. 520 (AB 1585), Sec. 6)

§31607. Employment of attorney

To assist in carrying out its investment powers and duties the board may employ an attorney in private practice.

(Amended by Stats. 1984, Ch. 1738, Sec. 26, Effective September 30, 1984)

Article 5.5

Alternative Financial Provisions

(Article 5.5 added by Stats, 1983, Ch. 886, Sec. 4; Article applicable in counties adopting it as prescribed by Section 31610. Note: Prior to 1985, this article comprised Sections 31510 to 31510.9)

§31610. Adoption of article; operation of certain sections

This article shall not become operative in any county unless and until it is adopted by resolution of the county board of retirement and the county board of supervisors, whereupon, the following sections shall not be operative as to that county: Sections 31453, 31529.5, 31591, 31592, 31592.2, 31592.3, and 31871.

(Added by renumbering Section 31510 by Stats. 1984, Ch. 193, Sec. 54)

§31611. Actuarial valuation; recommendation in change of rate of interest; cost

An actuarial valuation shall be made within one year after the date on which any system established under this chapter becomes effective, and thereafter at intervals not to exceed three years. The valuation shall be conducted under the supervision of an enrolled actuary and shall cover the mortality, service, and compensation experience of the members and beneficiaries, and shall evaluate the assets and liabilities of the retirement fund.

Upon the basis of the investigation, valuation, and recommendation of the actuary, the board shall, at least 60 days prior to the beginning of the succeeding fiscal year, recommend to the board of supervisors such changes in the rates of interest, in the rates of contributions of members, in county and district appropriations as are necessary, and appropriate mortality tables. In making recommendations to the board of supervisors, the board shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

No adjustment shall be included in the new rates for time prior to the effective date of the revision. The cost of actuarial valuations and investigations may, in the sound discretion of the board, be charged against the earnings of the retirement fund.

(Added by renumbering Section 31510.1 by Stats. 1984, Ch. 193, Sec. 55)

§31612. "Actuarial rate" defined

"Actuarial rate" means the interest assumption rate established by the most recent actuarial survey recommended by the board of retirement and adopted by the board of supervisors.

(Added by renumbering Sections 31510.2 by Stats. 1984, Ch. 193, Sec. 56)

§31613. "Net earnings" defined

"Net earnings" means the earnings of the retirement fund after accounting for any direct investment losses recognized during the year, less the amounts taken from the earnings as specified in subdivisions (a) and (b):

(a) The amounts specified in Sections 31580.2, 31580.3, if applicable, subdivisions (b) and

(d) of Section 31596, if applicable and Section 31611 and 31614.

(b) Any reductions from earnings required by Sections 31588.1 and 31589.1, if applicable. Part or all of any amounts required by Sections 31588.1 and 31589.1 may be deducted, at the discretion of the board of retirement, from the Contingency Reserve Account as described in Section 31616.

(Added by renumbering Section 31510.3 by Stats. 1984, Ch. 193, Sec. 57)

§31614. Employment of attorney; compensation; adoption by county

Notwithstanding Section 31529, the board may contract for the legal services of an attorney in private practice when the board determines, after consultation with the county counsel, that the county counsel cannot provide the board with legal services due to a conflict of interest or other compelling reason. The compensation of the attorney shall be charged against the earnings of the retirement fund or paid from the county general funds.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by renumbering Section 31510.4 by Stats. 1984, Ch. 193, Sec. 58)

§31615. Interest; credit to contributions, reserves and accounts; calculation of benefits

Regular interest at the actuarial rate, or at the highest rate possible if net earnings, as defined in Section 31613 are not sufficient to credit the full actuarial rate, shall be credited semiannually on June 30 and December 31 to all contributions, reserves, and accounts in the retirement fund, except the Contingency Reserve Account, which have been on deposit for six months immediately prior to those dates.

Interest at the actuarial rate, compounded semiannually, shall be used in the calculation of benefits under any mortality table adopted by the board of supervisors. No interest shall be credited to a member's account after the termination of the member's county service, unless the member has elected, in writing, to leave his or her accumulated contributions in the retirement fund and be granted a deferred retirement allowance, or the surviving spouse of a deceased member or the legally appointed guardian of the member's unmarried children under age 18 has elected to leave a death benefit on deposit as provided for in Section 31781.2.

(Added by renumbering Section 31510.5 by Stats. 1984, Ch. 193, Sec. 59)

§31616. Contingency Reserve Account; placement of retirement fund earnings; balance; use

After the semiannual application of Section 31615, earnings of the retirement fund in excess of the total interest credited to contributions and reserves shall remain in the fund as a reserve against deficiencies in interest earnings, losses on investments, or payments made pursuant to Section 31588.1 or 31589.1, if applicable.

These funds shall be placed in an account known hereafter as the Contingency Reserve Account. The size of this account shall be determined semiannually by the board but shall not exceed 3 percent of the total assets of the retirement fund.

If, at the end of any semiannual period, the balance of the Contingency Reserve Account falls below 1 percent of system assets, the board shall, by the end of the subsequent semiannual period, provide funds from earnings of fund assets from the subsequent semiannual period, to bring the level of the Contingency Reserve Account to at least 1 percent of system assets.

No funds in the Contingency Reserve Account shall be available for the payment of benefits.

Net earnings remaining after the application of this section shall be applied as provided in Sections 31617, 31618, and 31619.

(Added by renumbering Section 31510.6 by Stats. 1984, Ch. 193, Sec. 60)

§31617. Cost-of-living contributions

In each county having an agreement prior to January 1, 1983, that a fixed part of the required Article 16.5 (commencing with Section 31870) cost-of-living contributions shall come from excess interest earnings on the fund, after the semiannual application of sections 31615 and 31616, the balance of net earnings, as defined in Section 31613, shall be used to pay those contributions.

(Added by renumbering Section 31510.7 by Stats. 1984, Ch. 193, Sec. 61)

§31618. Supplemental Retiree Benefit Reserve; establishment; balance; transfers; distribution

The board shall establish a Supplemental Retiree Benefit Reserve in the retirement system consisting of any amount previously in the reserve against deficiencies, which on the date of adoption of this article, exceeds 3 percent of the assets of the retirement fund, or any lesser amount, as determined by the board. In no event, however, shall the balance of the contingency Reserve Account be reduced below 1 percent of system assets for this purpose. The Supplemental Retiree Benefit Reserve shall be used only for the benefit of retired members and beneficiaries.

Commencing on the date of adoption of this article, there shall be a semiannual transfer into this reserve of 50 percent of the balance of net earnings, as defined in Section 31613, after crediting all accounts pursuant to Section 31615, rebuilding the Contingency Reserve Account pursuant to Section 31616 and paying the part of the cost-of-living contributions pursuant to Section 31617, if applicable.

The distribution of the Supplemental Retiree Benefits Reserve shall be determined by the board.

(Added by renumbering Section 31510.8 by Stats. 1984, Ch. 193, Sec. 62)

§31618.5. Transfer to fund administrative costs of programs reimbursed by Supplemental Retiree Benefits Reserves; application (Alameda)

(a) The board shall annually transfer, from the administrative budget established pursuant to Article 5 (commencing with Section 31580), an amount sufficient to fund the administrative costs of the programs reimbursed by the Supplemental Retiree Benefits Reserve.

(b) This section shall only apply to a county of the fourth class as described in Section 28020.

(Added by Stats. 2010, Ch. 158 (SB 1479), Sec. 3)

§31619. Credit of remaining net earnings

Remaining net earnings, after the sequential application of Sections 31615 and 31616 and Section 31617, if applicable, and Section 31618 shall be credited to all contributions, reserves, and accounts in the retirement fund, except the Contingency Reserve Account, in the manner prescribed in Section 31615, except that no further interest shall be credited to the Supplemental Retiree Benefit Reserve, established pursuant to Section 31618.

(Added by renumbering Section 31510.9 by Stats. 1984, Ch. 193, Sec. 63)

Article 6

Members' Contributions

(Article 6 added by Stats. 1947, Ch. 424, Sec. 1)

§31620. Age basis; sex bias for rates of contribution, allowances or benefits; prohibition

The normal rate of contribution of members shall be based on age at the nearest birthday at the time of entrance into the retirement system.

Notwithstanding any provisions of this chapter to the contrary, separate rates of contribution, allowances, or benefits for male and female members shall not be maintained or established.

(Amended by Stats. 1976, Ch. 1436, Sec. 19.2)

§31620.5. Normal rates of contributions of general and safety members subject to California Public Employees' Pension Reform Act of 2013; determination of amount; exceptions

The normal rates of contribution of general and safety members subject to the California Public Employees' Pension Reform Act of 2013 shall be determined pursuant to Section 7522.30 subject to the following exceptions:

(a) The board may, but is not required to, apply the provisions of subdivision (c) of Section 7522.30 that require the initial contribution rate to be rounded to the nearest quarter of 1 percent.

(b) Subdivision (d) of Section 7522.30 shall not apply to the contribution rates of members of retirement systems established pursuant to this chapter.

(Added by Stats. 2013, Ch. 247 (AB 1380), Sec. 18)

§31621. Normal rate of contribution

The normal rates of contribution except for members covered by Article 6.8 shall be such as will provide an average annuity at age 60 equal to one one hundred-twentieth of the final compensation of members not covered by Article 6.8, according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

(Amended by Stats. 1957, Ch. 1161, Sec. 1.5)

§31621.1. Contribution to provide average annuity at age 55

In counties adopting Section 31676.11 the normal rates of contribution except for members covered by article 6.8 shall be such as will provide an average annuity at age 55 equal to 1/120 of the final compensation of members not covered by Article 6.8, according to the tables adopted by the board of supervisors for each year of service rendered after entering the system.

(Added by Stats. 1967, Ch. 1155, Sec. 1.3)

§31621.2. Contribution to provide average annuity at age 60

In counties adopting Section 31676.12, the normal rates of contribution, except for members covered by Article 6.8 (commencing with Section 31639) of this chapter, shall be such as will provide an average annuity at age 60 equal to one one-hundredth of the final compensation of members not covered by Article 6.8 according to tables adopted by the board of supervisors, for each year of service rendered after entering the system.

(Amended by Stats. 1975, Ch. 899, Sec. 1)

§31621.3. Contribution to provide average annuity at age 55; applicability of section

In counties adopting Section 31676.11, 31676.13, or 31676.14, or adopting one of such sections and then subsequently adopting another of such sections, the normal rate of contribution, except for members covered by Article 6.8 (commencing with Section 31639) of this chapter shall be such as will provide an average annuity at age 55 equal to one two-hundred-fortieth of the final compensation of members not covered by Article 6.8, according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

This section may be made applicable in such counties on the first day of the month after the board of supervisors of such county adopts, by majority vote, a resolution providing that this section shall become applicable in such county.

(Amended by Stats. 1976, Ch. 1413, Sec. 1, Effective September 30, 1976)

§31621.4. Normal rates of contribution; average annuity at age 60

The normal rates of contribution except for members covered by Article 6.8 shall be such as will provide an average annuity at age 60 equal to one two-hundred-fortieth of the final compensation of members not covered by Article 6.8 (commencing with Section 31639) of this chapter, according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

This section may be made applicable in such counties on the first day of the month after the board of supervisors of such county adopts, by majority vote, a resolution providing that this section shall become applicable in such county.

(Added by Stats. 1974, Ch. 1379, Sec. 2)

§31621.5. Counties adopting Section 31676.12; normal rates of contribution; average annuity at age 60

In counties adopting Section 31676.12, the normal rates of contribution, except for members covered by Article 6.8 (commencing with Section 31639) of this chapter, shall be such as will provide an annual annuity at age 60 equal to one two-hundredth of the final compensation of members not covered by Article 6.8, according to tables adopted by the board of supervisors, for each year of service rendered after entering the system.

This section may be made applicable in such counties, on the first day of the month after the board of supervisors of such county adopts, by majority vote, a resolution providing that this section shall become applicable in such county.

(Added by Stats. 1974, Ch. 1379, Sec. 3)

§31621.6. Counties adopting Section 31676.15; normal rates of contribution; average annuity age at 55

In counties adopting Section 31676.15, the normal rates of contribution, except for members covered by Article 6.8 (commencing Section 31639) of this chapter, shall be such as to provide an average annuity at age 55 equal to one one-hundredth of the final compensation of members not covered by Article 6.8, according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

(Added by Stats. 1975, Ch. 899, Sec. 2)

§31621.7. Normal rates of contribution; average annuity at age 55 (Contra Costa)

The normal rates of contribution for members covered by Section 31751 shall be such as will provide an average annuity at age 55 equal to one-three hundredth of the member's final compensation, according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

Until revised pursuant to Sections 31453 and 31454, the normal rate of contribution of each member is that percentage of the member's earnable compensation, shown in the following table according to the member's age at the time of entry into the retirement system:

Age of entry into system	Percentage of contribution
16	2.93
17	2.93
18	2.93
19	2.93
20	2.93
21	2.93
22	2.93
23	2.94
24	2.94
25	2.95
26	2.96
27	2.97
28	2.98
29	3.00
30	3.02
31	3.04
32	3.06
33	3.08
34	3.10
35	3.12
36	3.15
37	3.17
38	3.20
39	3.22
40	3.25
41	3.28
42	3.31
43	3.34
44	3.37
45	3.40
46	3.43
47	3.46
48	3.50
49	3.54
50	3.57
51	3.61
52	3.65
53	3.69
54 and over	3.72

(Added by Stats. 1980, Ch. 58, Sec. 1, Effective April 4, 1980)

§31621.8. Counties adopting Section 31676.17, 31676.18, or 31676.19; normal rates of contribution; average annuity age at 55

In counties adopting Section 31676.17, 31676.18, or 31676.19, the normal rates of contribution, except for members covered by Article 6.8 (commencing with Section 31639), shall be rates that provide an average annuity at the age of 55 years equal to one one-hundredth of the final compensation of members not covered by Article 6.8, according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

(Added by Stats. 2001, Ch. 782 (AB 616), Sec. 6)

§31621.9. Counties adopting Section 31676.14; normal rates of contribution; application (San Mateo, Stanislaus)

In counties adopting Section 31676.14, the normal rates of contribution, except for members covered by Article 6.8 (commencing with Section 31639), shall be that which will provide an average annuity at age 55 equal to $^{1}/_{120}$ of the final compensation of members not covered by Article 6.8 (commencing with Section 31639), according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

This section may be made applicable in counties on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution adopting this section.

This section shall apply only to a county of the 10th or 20th class, as provided by Sections 28020, 28031, and 28041.

(Added by Stats. 2001, Ch. 784 (AB 867), Sec. 2, Effective October 13, 2001)

(Amended by Stats. 2003, Ch. 96, (AB 398), Sec. 3)

§31621.11. Single rate of contributions; conditions

Instead of the normal rates of contribution required by Section 31621, 31621.1, 31621.2, or 31621.8 the board may, upon actuarial advice, establish a single rate of contributions applicable to all persons becoming members after this section is made operative in that county by the board. However, this rate shall be such as to provide the average annuity described in Section 31621, 31621.1, 31621.2, or 31621.8.

(Amended by Stats. 1973, Ch. 99, Sec. 1)

(Amended by Stats. 2001, Ch. 782 (AB 616), Sec. 5)

§31622. Table of percentages

Until revised pursuant to Section 31453 and 31454, the rate of contribution of each member not covered by Article 6.8 is that percentage of his earnable compensation shown in the following tables according to age and sex at the time of entry into the retirement system:

Age of entry into system	Percentage of contribution, Male	Percentage of contribution, Female
16	6.55	7.02
17	6.59	7.07
18	6.63	7.13
19	6.67	7.19
20	6.71	7.25
21	6.75	7.31
22	6.80	7.38
23	6.85	7.45
24	6.90	7.52
25	6.96	7.61
26	7.01	7.69
27	7.07	7.78
28	7.14	7.87
29	7.20	7.96
30	7.27	8.06
31	7.34	8.16
32	7.42	8.26
33	7.49	8.37
34	7.58	8.48
35	7.66	8.58

Age of entry into system	Percentage of contribution, Male	Percentage of contribution, Female
36	7.75	8.69
37	7.84	8.80
38	7.93	8.92
39	8.02	9.03
40	8.12	9.15
41	8.22	9.27
42	8.33	9.38
43	8.43	9.51
44	8.54	9.63
45	8.64	9.75
46	8.75	9.88
47	8.86	10.00
48	8.97	10.13
49	9.08	10.26
50	9.20	10.39
51	9.31	10.52
52	9.42	10.65
53	9.54	10.79
54	9.65	10.93
55	9.76	11.07
56	9.88	11.21
57	10.00	11.35
58	10.12	11.49
59	10.25	11.64
60	——	——

(Amended by Stats. 1951, Ch. 1098, Sec. 19)

§31623. Rate of contribution for members over 59 and aged 16

The normal rate of contribution established for age 59 is the rate for any member not covered by article 6.8 who has attained a greater age before entrance into the retirement system, and that established for age 16 is the rate for any member not covered by Article 6.8 who enters the retirement system at a lesser age.

(Amended by Stats. 1951, Ch. 1098, Sec. 20)

§31625. Deduction from first salary or wage warrant

Except as provided in Section 31625.1, unless otherwise provided by the regulations of the board the contribution shall be deducted by the county auditor or other officer charged with the duty of drawing salary or wage warrants from the first salary or wage warrant drawn in each month in favor of each member and shall be paid to the county treasurer and placed to the credit of each individual member's account.

(Amended by Stats. 1959, Ch. 1161, Sec. 1)

§31625.1. Deductions from salaries or wage warrants drawn semimonthly

In those counties in which salary or wage warrants are drawn semimonthly, not to exceed one-half the contribution shall be deducted by the county auditor or other officer charged with the duty of drawing salary or wage warrants from the first salary or wage warrant drawn in each month in favor of each member, and not to exceed one-half of such

deduction shall be deducted from the second salary or wage warrant drawn in each month in favor of each member. Such deductions shall be paid to the county treasurer and placed to the credit of each individual member's account.

(Added by Stats. 1959, Ch. 1161, Sec. 2)

§31625.2. Members having credit for 30 years' service; nondeduction of contributions

(a) Notwithstanding any other provisions of this chapter, contributions shall not be deducted from the salary of any member having credit for 30 years' service providing the member was a member on March 7, 1973, and remained in membership continuously until credited with 30 years' service.

(b) Notwithstanding subdivision (a), contributions shall not be deducted from the salary of any member having credit for 30 years' of continuous service in the retirement association of a county of the seventh class as established by Sections 28020 and 28028. This subdivision shall not apply to a member who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013.

(Amended by Stats. 1982, Ch. 454, Sec. 76)

(Amended by Stats. 1999, Ch. 27 (AB 266), Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 19)

§31625.3. Members having credit for 30 years of service; nondeduction of contributions; adoption by counties

(a) Notwithstanding any other provision of this chapter, contributions shall not be deducted from the salary of any member who was a member before or after March 7, 1973, of the retirement association, another county retirement system established under this chapter, or the Public Employees' Retirement System, and has total reciprocal service credit of not less than 30 years in the retirement association, or in the retirement association and another county retirement system established under this chapter, or the Public Employees' Retirement System, or a combination thereof.

(b) This section shall not apply in any county unless and until it is adopted by a majority vote of the board of supervisors.

(c) This section shall not apply to members who are subject to Section 7522.30.

(Amended by Stats. 1998, Ch. 116 (AB 2763), Sec. 1)

(Amended by Stats. 2000, Ch. 317 (AB 2176), Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 20)

§31626. Discharge of obligation by payment of salary less deduction

Payment of salaries and wages less the contribution is full and complete discharge and acquittance of all claims and demands whatsoever for service rendered by members during the period covered by such payment, except the benefits afforded by this chapter.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31627. Additional contributions by member

Subject to the regulations prescribed by the board, any member may elect to make additional contributions at rates in excess of his or her normal contributions, for the purpose of providing additional benefits. The exercise of this privilege by a member does not require the county or district to make any additional contributions. Upon application, the board shall

furnish to the member information concerning the nature and amount of additional benefits to be obtained by the additional contributions.

(Amended by Stats. 1993, Ch. 25, Sec. 1)

§31627.1. Return of additional contributions to member; calculation of annuity

A member who has additional contributions under Section 31627 may, within 30 days prior to retirement, elect in writing to have all or any part of the member's accumulated additional contributions returned to the member. The portion returned shall not be included in the calculation of the member's annuity.

(Added by Stats. 1951, Ch. 596, Sec. 3)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 31)

§31627.2. Return of contributions to member; calculation of annuity; withholding of payment by board

In any county in which the provisions of Section 31676.1 apply, any member who has additional contributions under Section 31627 may elect in writing to have all or any part of the member's accumulated additional contributions returned to the member. The portion returned shall not be included in the calculation of the member's annuity. The board may order payment in whole or in part withheld for a period not to exceed 90 days after receipt of such written election.

(Added by Stats. 1955, Ch. 249, Sec. 1, Effective April 26, 1955)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 32)

§31627.6. Additional appropriation by district upon receipt by member of credit for prior service

Whenever any member elects to receive credit for any time during which he was employed by a district and was not a member, under any provision of this chapter, such district shall make an additional appropriation equal to the amount which it would have appropriated had such member been a member during the time for which he has elected to obtain credit.

(Added by Stats. 1957, Ch. 1387, Sec. 4)

§31628. Return of contributions on termination; payment orders; service of notice of credit; compliance with Internal Revenue Code

If the service of a member is discontinued other than by death or retirement, upon proper application submitted to the retirement board, he or she shall be paid all of his or her accumulated contributions, in accordance with this chapter, minus a withdrawal charge, if a withdrawal charge has been provided for by the regulations of the board. The board may order payment in whole or in part withheld for a period not to exceed six months after date of separation. If a member does not file the proper application, the board shall send to the member, not more than 90 days after termination of service, at his or her last known address, a registered or certified letter, return receipt requested, stating that he or she has money to his or her credit on the books of the retirement system and that if he or she does not claim the money within 10 years after date of notice, in the case of persons first employed before January 1, 1976, or within five years in the case of persons first employed on and after January 1, 1976, the money will be deposited in and become a part of the current pension reserve fund.

(Amended by Stats. 1995, Ch. 457 (AB 847), Sec. 3)

(Amended by Stats. 1995, Ch. 584 (AB 1021), Sec. 13)

§31629. Deposit of contributions on failure of withdrawing member to claim; extended time; return by mail

If a former member does not file proper application for the return of his accumulated contributions within five years after date of such notice to him, such accumulated contributions shall be deposited in and become a part of the current pension reserve fund, and thereafter the fund shall not be liable to such member for any portion of his accumulated contributions.

However, notwithstanding the fact that such an application has not been filed, the board of retirement may, in its sound discretion authorize the return of any deposit account 90 days after the 90-day notice referred to in Section 31628, provided that the former employee had less than five years' service credit with the county.

No return of any deposit account may be made by mail pursuant to this section unless the letter provided for in Section 31628 was receipted for by the former member and the signed receipt is in the possession of the board of retirement or the county treasurer.

The amendment of this section enacted during the 1975-76 Regular Session shall be effective with respect to persons first becoming members of a retirement system on and after January 1, 1976.

(Amended by Stats. 1975, Ch. 251, Sec. 1)

§31629.5. Right to elect to leave accumulated contributions on deposit in retirement fund; revocation of election; service credit as employee of reciprocal system

(a) Notwithstanding Sections 31628 and 31629, on and after January 1, 2003, a member who is credited with less than the number of years of service required for vesting shall have the right to elect to leave accumulated contributions on deposit in the retirement fund. Failure to make an election to withdraw accumulated contributions shall be deemed an election to leave accumulated contributions on deposit in the retirement fund.

(b) An election to allow accumulated contributions to remain in the retirement fund may be revoked by the member at any time except: (1) while the member is employed in county service in a position in which the member is not excluded from membership in this system with respect to that service; (2) while the member is in service as a member of a public retirement system supported, in whole or in part, by state funds; or (3) while the member is in service, entered within six months after discontinuing county service, as a member of a reciprocal retirement system. All accumulated contributions contributed up to the time of revocation may then be withdrawn.

(c) A member whose membership continues under this section is subject to the same age, service, and disability requirements that apply to other members for service or disability retirement. After the qualification of the member for retirement by reason of age, which shall be the lowest age applicable to any membership category in which the member has credited service, or disability, the member shall be entitled to receive a retirement allowance based upon the amount of the member's accumulated contributions and service standing to the member's credit at the time of retirement and on the employer contributions held for the member and calculated in the same manner as for other members.

(d) Service, solely for purposes of meeting minimum service qualifications for service or disability retirement, shall also include service credited as an employee of a reciprocal system when the member retires concurrently from all reciprocal retirement systems. A member whose combined service from all reciprocal retirement systems does not meet the minimum service qualifications may not receive a service or disability retirement from this system.

(e) Notwithstanding Section 31467, for purposes of this section, "accumulated

contributions" means the sum of all member contributions standing to the credit of a member's individual account, and interest thereon.

(Added by Stats. 2002, Ch. 883 (AB 2766), Sec. 2)

(Amended by Stats. 2003, Ch. 62 (SB 600), Sec. 153)

§31630. Members' normal contributions; payment by and rights of district and certain counties

(a) Notwithstanding any other provisions in this chapter, the South Coast Air Quality Management District and in any county which has adopted Section 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, 31676.15, or 31751, the board of supervisors or district board, as the case may be, may agree to pay any portion of the members' normal contributions to the system. All the contributions paid by the county or district, as the case may be, shall remain its contributions, and no right therein shall accrue to any employee prior to the employee's election to take a regular, deferred, or disability retirement.

(b) Any contributions paid by the board of supervisors or the district board on behalf of the members shall be as determined by upon actuarial advice, and approved by the board of retirement.

(c) This section shall not apply to members who are subject to Section 7522.30.

(Amended by Stats. 1980, Ch. 58, Sec. 2, Effective April 4, 1980)

(Amended by Stats. 1997, Ch. 223 (AB 1598), Sec. 2)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 21)

§31631. Member payment of contributions for retirement benefits

(a) Notwithstanding any other law, a board of supervisors or the governing body of a district may, by resolution, ordinance, contract, or contract amendment under this chapter, without a change in benefits, require that members pay all or part of the contributions of a member or employer, or both, for any retirement benefits provided under this chapter. All of those payments are hereby designated as employee contributions. For members who are represented in a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors or the governing body of a district and the employee collective bargaining representative. The contributions shall be uniform either (1) with respect to all members of a recognized bargaining unit or (2) all members within each of the following categories: nonsafety subject to Section 7522.20 or safety subject to Section 7522.25.

(b) Nothing in this section shall modify a board of supervisors' or the governing body of a district's authority under law as it existed on December 31, 2012, including any restrictions on that authority, to change the amount of member contributions.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 32)

(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 4)

§31631.5. Board of supervisors or governing body of a district may require members to pay 50 percent of normal cost of benefits; bargaining process (effective January 1, 2018); authority to change contribution amount

(a) (1) Notwithstanding any other provision of this chapter, a board of supervisors or the governing body of a district may require that members pay 50 percent of the normal cost of benefits. However, that contribution shall be no more than 14 percent above the applicable normal rate of contribution of members established pursuant to this article for local

general members, no more than 33 percent above the applicable normal rate of contribution of members established pursuant to Article 6.8 (commencing with Section 31639) for local police officers, local firefighters, county peace officers, and no more than 37 percent above the applicable normal rate of contribution of members established pursuant to Article 6.8 (commencing with Section 31639) for all local safety members other than police officers, firefighters, and county peace officers.

(2) Before implementing any change pursuant to this subdivision for any represented employees, the public employer shall complete the good faith bargaining process as required by law, including any impasse procedures requiring mediation and factfinding. This subdivision shall become operative on January 1, 2018. This subdivision shall not apply to any bargaining unit when the members of that unit are paying at least 50 percent of the normal cost of their pension benefit or are subject to an agreement reached pursuant to paragraph (1). Applicable normal rate of contribution of members means the statutorily authorized rate applicable to the member group as the statutes read on December 31, 2012.

(b) Nothing in this section shall modify a board of supervisors' or the governing body of a district's authority under law as it existed on December 31, 2012, including any restrictions on that authority, to change the amount of member contributions.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 33)
(Amended by Stats. 2020, Ch. 370 (SB 1371), Sec. 156)
(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 33)

Article 6.8

Safety Members' Contributions

(Article 6.8 added by Stats. 1951, Ch. 1098, Sec. 23)

§31639. Application

This article shall apply in a county subject to the provisions of Sections 31676.1 and 31695.1.

(Amended by Stats. 1957, Ch. 568, Sec. 5)

§31639.1. Age as basis; sex bias for rates of contributions, allowances or benefits; prohibition

The normal rates of contribution of safety members shall be based on age at the nearest birthday at the time of entrance into the retirement system. Notwithstanding any other provision of this chapter to the contrary, separate rates of contribution for male and female safety members shall not be maintained or established, nor shall different allowances or benefits be established for male and female members.

(Amended by Stats. 1976, Ch. 1436, Sec. 19.3)

§31639.3. Table of percentages

Until revised pursuant to Sections 31453 and 31454, the rate of contribution of each safety member is that percentage of his or her earnable compensation shown in the following table according to age at the time of entry into the retirement system:

Age	Percentage
18	9.27
19	9.29
20	9.32
21	9.34
22	9.43

Age	Percentage
23	9.53
24	9.63
25	9.73
26	9.83
27	9.94
28	10.04
29	10.15
30	10.25
31	10.36
32	10.48
33	10.59
34	10.71
35	10.82
36	10.94
37	11.06
38	11.17
39	11.30
40	11.42
41	11.55
42	11.66
43	11.79
44	11.92
45	12.04
46	12.17
47	12.30
48	12.43
49 and over	12.56

(Amended by Stats. 1986, Ch. 840, Sec. 5)

§31639.4. Rate for age 35

The normal rate of contribution established for age 35 is the rate for any safety member who has attained a greater age before entrance into the retirement system, and that established for age 21 is the rate for any safety member who enters the retirement system at a lesser age.

(Added by Stats. 1951, Ch. 1098, Sec. 23)

(Repealed by Stats. 2008, Ch. 164 (AB 3044), Sec. 6)

§31639.5. Normal rate of contribution; reduction

The normal rate of contribution shall be such as will provide an average annuity at age 50 equal to one two-hundredth of the final compensation of safety members according to the table adopted by the board of supervisors for each year's service rendered after entering the system.

This section shall become operative in any county on the first day of the calendar month after the board of supervisors adopts a resolution making it operative in the county.

(Added by Stats. 1974, Ch. 493, Sec. 1)

§31639.7. Persons entitled to membership by amendment of chapter; credit as safety member; election to make payments

(a) If a member not previously within the field of membership as a safety member is brought within such field of safety membership by amendment to this chapter, he or she

may receive credit as a safety member for all or any part of the time during which his or her duties would have made him or her eligible to become a safety member if the amendment had then been in effect by filing with the board at the time he or she elects to become a safety member his or her election to pay into the retirement fund an amount equal to the difference between the contributions actually made during the time for which he or she claims credit and the contributions he or she would have made during that time, including all additional contributions, if any, required by Article 7.5 of this chapter, had he or she been a safety member, together with regular interest on the amount required to be deposited.

(b) If a member not previously within the field of membership as a Los Angeles County Deputy Sheriff is brought into that field of membership by a consolidation of the Los Angeles County Office of Public Safety with the Los Angeles County Sheriff's Department, that member may receive additional credit as a safety member for all or any part of the time that member served as an officer with the Los Angeles County Office of Public Safety if that member makes an election to fund an amount equal to the difference between the member and employer contributions actually made as a general member and the member and employer contributions made for the time in which he or she claims credit, together with regular interest on the amount required to be deposited. The member may elect to fund the contributions by either a lump sum payment or by installment payments. No other restrictions shall be placed on a member's election to receive additional credit as authorized by this subdivision.

(Amended by Stats. 1970, Ch. 369, Sec. 2)

(Amended by Stats. 2010, Ch. 118 (AB 1658), Sec. 1)

§31639.8. Additional contributions of persons entitled to membership by amendment of chapter

The additional contributions of such members shall be regular monthly salary deductions in the amount specified by the member, but in no case less than six dollars ($6) per month. The total amount due shall be paid prior to the effective date of his death or retirement, except that his spouse, or his minor children if no spouse survives him, may elect to pay any balance due within 90 days after the death of a member. If the total amount due is not paid the member, his spouse or his minor children shall receive credit for service as a safety member for only the time for which such additional contributions are made. Any member who has elected to make such additional payments in installments by salary deductions may complete payment thereof by a single lump-sum payment at any time prior to the effective date of his retirement.

(Added by Stats. 1957, Ch. 1301, Sec. 7)

§31639.9. Counties of the ninth class; contributions and benefits; negotiation (Contra Costa)

In any county of the ninth class, as defined by Sections 28020, and 28030, as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may meet and confer pursuant to the Meyers-Millias-Brown Act with a recognized employee organization which represents county employees who are not safety members because the board of supervisors has not made Section 31469.4 applicable in the county, and endeavor to reach agreement on any conditions to be required of employees or an employee organization seeking to have Section 31469.4 made applicable, including, but not limited to, whether the employees shall be required to pay all or part of the employer's normal and cost-of-living contributions, in excess of those it would have paid if the employees had remained general members, including any increased employer normal and cost-of-living contribution rates attributable to employees who have become safety members electing to purchase credit as a safety member, pursuant to Section 31639.7, for time served in an eligible position prior to becoming a safety member.

Any contributions paid by the employees on behalf of the employer to cover the increased cost of safety retirement shall be as determined upon actuarial advice and approved by the board of retirement.

The provisions of this section shall not be applicable in any county until the board of supervisors by resolution makes the provisions applicable.

(Added by Stats. 1990, Ch. 372, Sec. 1)

§31639.25. Rates of contribution

The normal rates of contributions shall be such as will provide an average annuity at age 50 equal to one one-hundredth of the final compensation of safety members, according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

The provisions of this section shall supersede the provisions of Section 31639.2.

(Added by Stats. 1967, Ch. 550, Sec. 1)

§31639.26. Single rate of contributions; conditions

Instead of the normal rates of contribution required by Section 31639.25 the board may, upon actuarial advice, establish a single rate of contributions applicable to all persons becoming members after this section is made operative in that county by the board. However, this rate shall be such as to provide the average annuity described in Section 31639.25.

(Amended by Stats. 1973, Ch. 99, Sec. 2)

§31639.75. Credit for time as general member; payment into retirement fund; partial credit election; application of section

A safety member not previously within the field of membership as a safety member may receive not more than five years of credit as a safety member for all or any part of the time during which he or she was a general member by paying into the retirement fund by lump sum or by installment payments an amount equal to the difference between the member and employer contributions actually made as a general member and the member and employer contributions that would have been made had he or she been a safety member during the time for which he or she claims credit together with regular interest on the amount required to be deposited. A member who elects to receive credit for only a part of his or her county service shall elect that county service latest in time and may not receive credit for any portion of that county service prior in time to any county service for which he does not elect to receive credit. This section is applicable only to active members with five or more years of service as a safety member.

This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1996, Ch. 306 (AB 2748), Sec. 1)

§31639.76. Receipt of credit as safety member (Sacramento)

Notwithstanding Section 31639.7, a safety member described in subdivision (b) of Section 31470.2 may receive credit as a safety member for all or any part of the time during which he or she was not within the field of membership as a safety member to the extent and subject to the terms and conditions provided in a memorandum of understanding between the employer and the designated employee representative.

This section shall apply only to a county of the eighth class, as defined in Sections 28020 and 28029, both as amended by Chapter 1204 of the Statutes of 1971, if the board of supervisors in that county has elected to make subdivision (b) of Section 31470.2 applicable in the county.

(Added by Stats. 2000, Ch. 482 (AB 439), Sec. 3)

§31639.85. Safety members' normal contributions; payment by county; right to contributions

(a) Notwithstanding any other provisions in this chapter, in any county which has adopted Section 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, or 31676.15 the board of supervisors may agree to pay any portion of the safety members' normal contributions to the system. All contributions paid by the county shall remain county contributions, and no right therein shall accrue to any employee prior to the employee's election to take a regular, deferred, or disability retirement.

(b) Any contributions paid by the board of supervisors on behalf of the safety members shall be as determined upon actuarial advice, and approved by the board of retirement.

(c) This section shall not apply to members who are subject to Section 7522.30.

(Added by Stats. 1975, Ch. 583, Sec. 2)

(Amended by Stats. 1997, Ch. 223, (AB 1598), Sec. 3)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 22)

§31639.95. Section applicable to Contra Costa County retirement system by resolution; payment of employer's contributions by employees; application to safety members (Contra Costa)

(a) This section shall only apply to the retirement system of Contra Costa County and only if the board of supervisors of that county adopts, by majority vote, a resolution making this section applicable in the county. Notwithstanding any other provision of law, the board of supervisors may make this section applicable in the county on a date specified in the resolution, which date may be different than the date of the resolution.

(b)(1) When the board of supervisors meets and confers pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1) with any recognized employee organization that represents county employees who are safety members, the parties may agree, pursuant to a memorandum of understanding, to any of the following:

(A) Whether the employees shall be required to pay all or part of the employer's contributions required to fund the benefits of Section 31664.1, the amount or percentage of that contribution, the method that the contribution is made, and the commencement date, which may predate the effective date of the memorandum of understanding.

(B) Subject to an agreement reached pursuant to Section 31484.9, whether the employees shall be required to pay all or part of the employer's contributions required to fund the benefits of Section 31664.2, the amount or percentage of that contribution, the method that the contribution is made, and the commencement date, which may predate the effective date of the memorandum of understanding.

(C) Changing any of those conditions described in subparagraph (A) or (B), including, but not limited to, increasing or reducing, for any years, the portion and the amount of the employer's contributions that employees are required to pay.

(2) The terms of any agreements reached with a recognized employee organization pursuant to this subdivision may be made applicable by the board of supervisors to unrepresented county employees who are safety members.

(c)(1) After the board of supervisors has adopted the resolution described in subdivision (a), the governing body of a district within the county may make this section applicable to its employees who are safety members pursuant to a memorandum of understanding under the

Meyers-Milias-Brown Act with any recognized employee organization that represents district employees who are safety members on any of the matters described in subdivision (b).

(2) The terms of any agreements reached with a recognized employee organization pursuant to this subdivision may be made applicable by the governing body of the district to unrepresented district employees who are safety members.

(d) Any contributions paid by a member pursuant to this section shall be deemed to be part of the member's accumulated contributions.

(Added by Stats. 2002, Ch. 695 (SB 2100), Sec. 1, Effective September 18, 2002, as an urgency statute)

(Amended by Stats. 2006, Ch. 633 (SB 524), Sec. 2)

Article 7

Service

(Article 7 added by Stats. 1947, Ch. 424, Sec. 1)

§31640. "County service" defined

"County service" means the employment of a person by a county, district, municipal court, or superior court.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31640.5. Computing credit for temporary, seasonal, intermittent or part time service; "year of service" defined

Where service for which a member receives credit, either prior to or during membership, is on a tenure which is temporary, seasonal, intermittent, or part time only, the member shall receive credit as continuous service for that proportion of the time he or she held the position as the time he or she actually was engaged in the performance of the duties of the position bears to the time required to perform the same duties in a full-time position.

A "year of service" in the position shall be construed to mean the time during which the member has earned one full year of credit, calculated as provided in this section.

The provisions of this act are declaratory of existing law.

(Added by Stats. 1955, Ch. 1756, Sec. 4)

(Amended by Stats. 2003, Ch. 830 (AB 85), Sec. 1)

§31640.7. Proscription against credit for service not performed; Purchase of additional credit

(a) A member of a retirement system shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 23007.5 or 50033.

(b) Nothing in this section shall prohibit an elective officer from purchasing service credit pursuant to Section 31658.

(Added by Stats. 2006, Ch. 355 (AB 2351), Sec. 3)

§31641. "Service" defined

"Service" means uninterrupted employment of any person appointed or elected for that period of time:

(a) For which deductions are made from his earnable compensation from the county or district for such service while he is a member of the retirement association.

(b) In military service for which the county or district or member is authorized by other

provisions of this chapter to make, and does make contributions.

(c) For which he receives credit for county service or for public service or for both pursuant to the provisions of this article.

(d) Allowed for prior service.

(Amended by Stats. 1955, Ch. 363, Sec. 11)

§31641.01. Sacramento and Contra Costa Counties; sick leave credit (Sacramento, Contra Costa)

In any county of the eighth or ninth class as established in Sections 28020, 28029 and 28030 as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may provide by ordinance that each member shall be credited, at the rate of one day for each one day earned, with sick leave accumulated as of the date of his retirement and that sick leave credit shall be in addition to service credit. The additional cost to the retirement system shall be borne by the county or district.

(Amended by Stats. 1972, Ch. 309, Sec. 1)

§31641.02. Third class county; sick leave credit (San Diego)

In any county of the third class as established in Section 28024, the board of supervisors may provide by ordinance that members specified in the ordinance shall be credited, for up to the full amount of sick leave accumulated as of the date of their retirement, and that sick leave credit shall be in addition to service credit. The additional cost to the retirement system shall be borne by the county or district.

(Added by Stats. 1974, Ch. 1390, Sec. 2)

§31641.03. Credit for accumulated sick leave; ordinance or resolution; necessity

In any county the board of supervisors may provide by ordinance that members specified in the ordinance shall be credited, for up to 100 percent of sick leave accumulated as of the date of their retirement, and that sick leave credit shall be in addition to service credit. The additional cost to the retirement system shall be borne by the county or district.

This section shall not apply to members who are employed by a district unless the governing board of the district provides by resolution for its application to such members.

(Added by Stats. 1975, Ch. 574, Sec. 1)

§31641.04. Additional service credit; retirement pursuant to resolution; conditions; applicability

(a) When the board of supervisors, by resolution, determines that because of an impending curtailment of service or change in the manner of performing service, savings of money, or other economic benefit resulting to the county, the best interests of the county would be served, a member shall be eligible to receive additional service credit if the following conditions exist:

(1) The member is employed in a job classification, county department, or other county organizational unit included in the resolution adopted by the board of supervisors.

(2) The member retires on or between dates specified by the board of supervisors in its resolution. In no event shall the specified period exceed 180 days.

(3) The county transmits to the retirement fund an amount determined by the board of retirement which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the county and the board of retirement.

(b) The amount of service credit shall be that amount as the board of supervisors determines but shall not be more than two years regardless of credited service and shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age.

(c) A county which elects to make the payment prescribed by subdivision (a) shall make such payment with respect to all eligible employees who retire during the period specified by the board of supervisors.

(d) This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments during the period six months prior to the period specified pursuant to subdivision (a). This section shall not be applicable to any member if the member is not eligible to retire without the additional credit available under this section.

(e) This section shall not be applicable in any county until it is adopted by ordinance of the board of supervisors. Any county may adopt or readopt this section from time to time as conditions may warrant. This section shall not be applicable in any district whose employees are members of the system pursuant to Section 31557 until it is adopted by ordinance by the governing body of the district. Any district whose employees are members of the system pursuant to Section 31557 may adopt or readopt this section from time to time as conditions warrant.

(f) Any member who qualifies under this section upon subsequent reentry to county employment shall forfeit the service credit acquired under this section, unless the reentry is a result of a temporary callback limited to a maximum of 720 hours of service in any one year.

(g) This section shall not be subject to the provisions of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.

(Amended by Stats. 1986, Ch. 48, Sec. 1)

§31641.05. Members credited with 10 or more years of service; additional service credit; amounts; cost recapture; verification by audit; application of section; forfeiture upon reemployment; duration of section

(a) Notwithstanding Section 31641.04 or any other provision of this part, for only the 1994-95, 1995-96, 1996-97, 1997-98, and 1998-99 fiscal years, when the board of supervisors, by resolution, determines that because of an impending curtailment of service or change in the manner of performing service, savings of money, or other economic benefit resulting to the county, the best interests of the county would be served, a member shall be eligible to receive additional service credit if all of the following conditions exist:

(1) The member is employed in a job classification, county department, or other county organizational unit included in the resolution adopted by the board of supervisors.

(2) The member is credited with 10 or more years of service and retires on or between dates specified by the board of supervisors in its resolution. In no event shall the specified period exceed 120 days.

(3) The county transmits to the retirement fund an amount determined by the board of retirement that is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he or she would have received without that service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the county and the board of retirement. However, the payment period shall not exceed five years.

(b) The amount of service credit shall be the amount that the board of supervisors determines, but shall not be more than four years regardless of credited service and shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age and shall not be combined with any additional service credit granted under Section 31641.04.

(c) The resolution described in subdivision (a) shall either identify sufficient deleted positions whose total cost equals or exceeds the lump-sum actuarial cost of the additional service credit granted or proclaim that all positions vacated due to the additional service credit granted pursuant to this section shall remain vacant for at least five years and until the lump-sum actuarial cost of the additional service credit granted has been recaptured from position vacancy salary savings.

(d) The board of supervisors shall certify to the board of retirement the extent to which savings will exceed necessary payments to the board of retirement, and the specific measures to be taken to assure that outcome. The board of retirement may require the board of supervisors to provide verification of its certification through independent review.

(e) At the time the county has achieved savings that are more than adequate to meet necessary payments to the board of retirement, or five years after commencement of the retirement period specified in paragraph (2) of this section, whichever occurs first, the board of supervisors shall certify to the retirement board the amount of actual savings and the measures taken to achieve the savings. The board of supervisors shall maintain records for each worker retiring pursuant to this section. The board of retirement may require the board of supervisors to provide verification of its certification through independent review. The board of supervisors shall report these certifications to the Controller, who should summarize the cost and savings information therein in his or her annual report prepared pursuant to Sections 7501 through 7504. The Controller shall perform a postaudit to verify that the savings equal or exceed the lump-sum actuarial cost of the additional service credit granted pursuant to this section. The county shall pay the cost of the postaudit.

(f) A county that elects to make the payment prescribed by subdivision (a) shall make the payment with respect to all eligible employees who retire during the period specified by the board of supervisors.

(g) This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments during the period six months prior to the period specified pursuant to subdivision (a). This section shall not be applicable to any member if the member is not eligible to retire without the additional credit available under this section.

(h) This section shall not be applicable in any county until it is adopted by ordinance of the board of supervisors. Any county may adopt or readopt this section from time to time as conditions warrant.

(i) Any member who qualifies under this section upon subsequent reentry to county employment shall forfeit the service credit acquired under this section, unless the reentry is a result of a temporary callback pursuant to Section 31680.2, 31680.3, or 31680.6. Any member who receives credit under this section shall not be temporarily employed as an annuitant pursuant to Section 31680.2, 31680.3, or 31680.6 for five years following the date of retirement.

(j) The board of supervisors shall certify to the retirement board that the county has complied with Section 7507.

(k) This section shall not be subject to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.

(l) No additional service credit shall be granted pursuant to this section on or after July 1, 1999.

(Added by Stats. 1994, Ch. 540 (SB 1488), Sec. 3)

(Amended by Stats. 1997, Ch. 458 (SB 1192), Sec. 2, Effective September 23, 1997, as an urgency statute)

§31641.1. Contributions and credit for prior public service

A member who was in public service before becoming a member may elect by written notice filed with the board to make contributions pursuant to Section 31641.2 and to receive

credit in the retirement system for all allowed public service time. Credit for part-time service shall be calculated as provided in Section 31641.5.

(Amended by Stats. 1965, Ch. 508, Sec. 1)

§31641.2. Amount of contributions by member previously in public service

Any member of the retirement system who elects pursuant to Section 31641.1 to make contributions and receive credit as service for time for which he or she claims credit because of public service shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump sum payment or by installment payments over a period not to exceed five years, an amount equal to the sum of:

(a) Twice the contributions he or she would have made to the retirement fund if he or she had been a member during the same length of time as that for which he or she has elected to receive credit as service, computed by applying the rate of contribution first applicable to him or her upon commencement of his or her membership in this system to the monthly compensation first earnable by him or her at the time as provided in Section 31641.3, multiplied by the number of months for which he or she has elected to receive credit for county service, including time, if any, prior to the establishment of the system, and which will constitute current service under this system.

(b) The "regular interest" that would have accrued to the member contributions if they had been made on the date used to determine on what earnable compensation contributions pursuant to this section shall be based, from that date until the completion of payment of those contributions, computed at the current interest rate.

(c) Except as prohibited by Section 31640.7, the governing body by a four-fifths vote may provide that it shall make on behalf of officers and employees eligible to receive credit for prior service under this chapter, and who so elect prior to filing an application for retirement, part of the contributions specified in paragraphs (a) and (b) of this section. The contributions made by a governmental agency pursuant to this section shall be available only for purposes of retirement for service or for disability and a member resigning from county service shall be entitled to withdraw only that portion of his or her accumulated contributions made by him or her.

(Amended by Stats. 1967, Ch. 387, Sec. 1)

(Amended by Stats. 2006, Ch. 355 (AB 2351), Sec. 4)

§31641.3. Compensation first earnable

In Section 31641.2 compensation first earnable shall be that earnable by the member at the time of the commencement of his membership in the retirement system, except that if a member who, prior to January 1, 1952, was a member of any retirement system in the same county which was superseded by a system established under this act, if such member so requests, the compensation first earnable by him at the later of the following times shall be used:

(a) The commencement of his membership in such superseded retirement system.

(b) The date on which this retirement system first became operative.

(Added by Stats. 1955, Ch. 363, Sec. 7)

§31641.4. Public service credits; certification; prior employment credits of safety members

(a) (1) Except as provided in paragraph (2), a member shall receive credit for employment in public service only for such service as the member is not entitled to receive a pension or retirement allowance from such public agency. The service for which the member elects to contribute and the fact that no pension or retirement allowance will accrue to such member by virtue of the member's employment in the public agency shall be certified to by

an officer of the public agency where the member rendered such public service or shall be established to the satisfaction of the board.

(2) Nothing in this subdivision prohibits a member from receiving credit for a period of federal public service if federal law expressly permits the credit even though the member is already entitled to receive a pension or retirement allowance from that service. It is intended that this section be consistent with the holdings in Cantwell v. San Mateo County (1980) 631 F.2d 631.

(b) Notwithstanding any other provision of law, a safety member who receives credit for prior employment in public service, the principal duties of which consisted of active law enforcement or active fire suppression, or active service in the armed services of the United States during time of war or national emergency, shall have the member's pension or retirement allowance for this service calculated on the same basis as the calculation of the retirement allowance the member would receive as a safety member under Section 31664.

(c) A safety member who entered the service as a peace officer prior to the establishment of the safety membership provisions in the member's county shall be considered a safety member from the member's initial hiring date, for the purposes of this section, notwithstanding any other provision of law.

(Amended by Stats. 1975, Ch. 1171, Sec. 1)

(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 9)

§31641.5. Credit for prior nonmembership service; election; payment of additional contributions; lump sum payment

A member who prior to his entrance into the retirement system held a position in the county service the tenure of which was such as to exclude him from membership, or a coroner, public administrator or coroner-public administrator who was excluded because of the means by which he was compensated, shall have the right to receive credit in the retirement association for all or any part of the county service he rendered, whether interrupted or not, during the time he was in county service before becoming a member if he elects to pay, and thereafter pays, in accordance with such election, and prior to retirement, into the retirement fund an amount equal to the contributions he would have made to the retirement fund if he had been a member during the time for which he has elected to receive credit, computed by applying the contribution rate first applicable to him upon becoming a member to the aggregate compensation he actually received during the time he was in county service and for which he has elected to receive credit, together with interest at the current rate on that amount from the time he became a member until completion of payment. Such payment may be made by lump sum or by installment payments over a period not to exceed the length of time for which the member has elected to receive credit, in such manner and at such times as the board may by rule prescribe. No member shall receive credit under this section for any service for which he has not completed payment pursuant to this section before the effective date of his retirement. A member who has elected to make such payment in installments may complete payment thereof by lump sum at any time prior to the effective date of his retirement. Any sums paid by a member pursuant to this section shall be considered to be and administered as normal contributions by the member.

Where county service prior to membership was rendered on a part-time basis, the member may receive credit for such proportion of the time he held the part-time position as the time he was actually engaged in the performance of the duties of such position bears to the time required to perform the same duties in a full-time position.

A member who elects to receive credit for only a part of such county service shall elect that county service latest in time and may not receive credit for any portion of such county

service prior in time to any county service for which he does not elect to receive credit.

(Amended by Stats. 1961, Ch. 2095, Sec. 3)

§31641.6. Assumption by county of functions of city; credit for prior service for city; election; operative date of section

An employee of a city who has become a county employee upon the assumption by the county of the functions of the city department in which he was employed, may, if he is not covered by the city under a contract with the Public Employees' Retirement System, elect to receive credit in the county retirement system for service for the city prior to the cessation of his employment by the city. When such person elects to receive credit, membership in the retirement system shall commence with the first day of the month in which credit is granted.

Any such person shall be entitled to credit in the county retirement system for service performed for the city when and if (a) the board of retirement receives certification from the city of the city service and earnable compensation of the employee; and (b) the employee deposits into the employees' retirement system the amount of contributions he would have made had he been a county employee during his city employment; and (c) there is also deposited in the employees' retirement system by the city, the employee, or both, the amount that the county would have been required to deposit to the employees' retirement fund based on the city salary paid to such employee.

Upon deposit of such funds, the employee's age at entry shall be considered to be his age at time of employment with the city or at the time this chapter was effective in the county whichever is later. Such money deposited under (b) above shall be considered as accumulated normal contributions of the employee and any such money deposited under (c) above shall be considered as contributions of the employer county.

If all the money called for under (b) above is not paid within 90 days after employment by the county, only the part of city employment latest in date covered by such deposit shall be credited and the age at entry and the amount under (c) above shall be adjusted accordingly.

An employee shall receive credit for city employment prior to his employment by the county only for such service for which he is not entitled to receive a pension or retirement from such city.

This section shall become operative in any county on the first day of the calendar month after the board of supervisors adopts by four-fifths vote a resolution making it operative in the county.

(Amended by Stats. 1973, Ch. 272, Sec. 1)

§31641.7. Rate of compensation to be used by member unable to furnish information required for purposes of section 31641.5

If the member is unable to furnish the information necessary to establish his aggregate compensation for the period of service for which he seeks credit pursuant to Section 31641.5, then the rate of compensation applicable to him at the time he first became a member of this system after the period to be credited shall be used in making the computation required by Section 31461.5.

(Added by Stats. 1969, Ch. 501, Sec. 1)

§31641.8. Installment payments; lump sum payment

Any member who has elected to make contributions pursuant to this chapter by installment payments may, at any time prior to the effective date of his retirement, complete payment thereof by lump sum.

(Added by Stats. 1955. Ch. 363, Sec. 9)

§31641.9. Treatment of contributions; matching by county

All contributions made by a member, pursuant to Sections 31641.1, 31641.2, 31641.3 and 31641.4 shall be considered to be, and shall be administered as, normal contributions but shall not be matched by the county upon retirement of the member.

(Amended by Stats. 1957, Ch. 1386, Sec. 3)

§31641.20. Prior service; lump-sum or installment payments; regular interest; public agency contributions; counties of third class (San Diego)

Any member of the retirement system who elects pursuant to Section 31641.1 to make contributions and receive credit as service for time for which he or she claims credit because of public service shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed five years, an amount equal to the sum of:

(a) Twice the contributions he or she would have made to the retirement fund if he or she had been a member during the same length of time as that for which he or she has elected to receive credit as service, computed by applying the rate of contribution at the time of the election to the monthly compensation earnable by him or her at the time of the election pursuant to Section 31641.1, multiplied by the number of months for which he or she has elected to receive credit for county service, including time, if any, prior to the establishment of the system, and which will constitute current service under this system.

(b) The "regular interest" which would have accrued to the member contributions if they had been made on the date used to determine on what earnable compensation contributions pursuant to this section shall be based, from that date until the completion of payment of those contributions, computed at the current interest rate.

(c) The governing body by a four-fifths vote may provide that it shall make on behalf of officers and employees eligible to receive credit for prior service under this chapter, and who so elect prior to filing an application for retirement, part of the contributions specified in paragraphs (a) and (b) of this section. The contributions made by a governmental agency pursuant to this section shall be available only for purposes of retirement for service or for disability and a member resigning from county service shall be entitled to withdraw only that portion of his or her accumulated contributions made by him or her.

(d) This section shall only apply in counties of the third class, as established by Sections 28020 and 28024, as amended by Chapter 1204 of Statutes of 1971, but it shall not apply in those counties unless and until it is adopted by a majority vote of the board of supervisors.

(Added by Stats. 1990, Ch. 205, Sec. 1)

§31641.21. Regular interest, defined for purpose of Section 31641.2

Regular interest computed at the current interest rate as used in subdivision (b) of Section 31641.2 shall mean that amount of interest which would have been credited to the account of the member on the amount to be deposited at the interest rates established for the system if the contribution required by that section had been on deposit from the date used to determine the earnable compensation on which such contributions are based until the amount required to be deposited has been paid.

(Added by Stats. 1970, Ch. 369, Sec. 3)

§31641.45. Refund of amount deposited plus interest; no credit received for public service

Whenever a member is entitled to redeposit funds previously withdrawn from a retirement system and thereby becomes eligible to receive a pension or retirement allowance for the service for which the member was granted public service credit as authorized in Section 31641.1, regardless of whether or not the member elects to exercise such entitlement, the

member shall be refunded the amount deposited by the member in accordance with Section 31641.2 plus interest which has been credited to such amount and shall receive no credit in the system for such service.

This section applies only to a member who would be eligible to receive the benefit of Section 31835 or 20638 on making the redeposit.

(Amended by Stats. 1971, Ch. 504, Sec. 1)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 34)

§31641.51. "Interest at the current rate" defined

"Interest at the current rate" means the amount of interest which would have been credited to the account of the member on the amount to be deposited at the interest rates established for the system if the contribution required by that section had been on deposit from the time he became a member of the system until the amount required to be deposited has been paid.

(Added by Stats. 1970, Ch. 369, Sec. 4)

§31641.55. Purchase of service credit in event of closure, downsizing, or realignment; Payment; Definitions; Applicability

(a) A member described in Section 31470.4 who was in public service before becoming a member, and that service was terminated as a consequence of the closure, downsizing, or realignment of a federal military installation, may elect by written notice filed with the board to make contributions pursuant to subdivision (b) and to receive credit in the retirement system for all allowed public service time.

(b) Any member described in subdivision (a) who elects pursuant to subdivision (a) to make contributions and receive service credit for time for which he or she claims credit because of public service shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump175 sum payment or by installment payments over a period not to exceed 10 years, an amount equal to the sum of the following:

(1) The contributions he or she would have made to the retirement fund if he or she had been a member during the same length of time as that for which he or she has elected to receive service credit, computed by applying the rate of contribution first applicable to him or her upon commencement of his or her membership in this system to the monthly compensation first earnable by him or her at the time, multiplied by the number of months for which he or she has elected to receive service credit for public service.

(2) Interest at the current rate, as defined in Section 31641.51, from the date of his or her first membership in the system until the completion of payment of those contributions.

(c) The governing body by a majority vote may provide that it shall make part of the contributions specified in paragraphs (1) and (2) of subdivision (b) on behalf of its members eligible to receive credit for public service under this section who so elect prior to filing an application for retirement.

(d) A member who has elected to make the payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement. Any contributions made by a member pursuant to this section shall be considered and administered as normal contributions by the member.

(e) For purposes of this section, the following definitions shall apply:

(1) Notwithstanding Section 31478, "public agency" means the United States of America, this state, or any department or agency of either, or any city, county, city and county, special district, or other public or municipal corporation or political subdivision that is within this state or is situated in whole or in part within a county.

(2) Notwithstanding Sections 31479, 31479.2, and 31479.3, "public service" means

service as a permanent career civilian federal firefighter or permanent career state firefighter in a position whose principal duties consist of active fire suppression or law enforcement, for which the officer or employee received compensation from the public agency, and with respect to which he or she is not entitled to receive credit in any retirement system supported wholly or in part by public funds after he or she becomes a member of this system.

(f) This section shall apply only to a county or district beginning on the first day of the month after the board of supervisors for that county or the governing body of a district adopts a resolution, by majority vote, that provides that this section shall apply to the county or district.

(Added by Stats. 2006, Ch. 834 (AB 3033), Sec. 4)

§31641.56. Credit for prior county service while on deferred status; election; contributions; lump sum payment; contingent operation

A member who returns to county service after having been on deferred status while rendering county service in a position excluded from membership, shall have the right to receive credit in the retirement association for all or any part of the county service he or she rendered during the time he or she was on deferred status if he or she elects to pay, and thereafter pays, in accordance with the election, and prior to retirement, into the retirement fund an amount equal to the contributions he or she would have made to the retirement fund if he or she had not been on deferred status during the time for which he or she has elected to receive credit, computed by applying the contribution rate first applicable to him or her upon returning to county service to the aggregate compensation he or she actually received during the time he or she was in county service and for which he or she has elected to receive credit, together with regular interest on that amount from the time he or she was on deferred status until completion of payment. The payment may be made by lump sum or by installment payments over a period not to exceed the length of time for which the member has elected to receive credit, in the manner and at the times as the board may by rule prescribe. No member shall receive credit under this section for any service for which he or she has not completed payment pursuant to this section before the effective date of his or her retirement. A member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement. Any sums paid by a member pursuant to this section shall be considered to be administered as normal contributions by the member.

A member who elects to receive credit for only a part of that county service shall elect that county service latest in time and may not receive credit for any portion of that county service for which he or she does not elect to receive credit.

This section shall not be operative in any county until the time that the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in the county.

(Added by Stats. 1990, Ch. 371, Sec. 1)

§31641.95. Applicability of certain sections

Sections 31470.7, 31478, 31479, 31480, 31641.1, 31641.2, 31641.3, 31641.4, 31641.8, and 31641.9 may only be applicable in any county or district on the first day of the month after the governing board of such county or district adopts, by majority vote, a resolution providing that those sections shall become applicable in such county or district. Such resolution may limit the applicability of such sections to any one or more of the public agencies as defined by Section 31478.

At any time after such a resolution has been adopted, the governing board of the county or district, by majority vote, may adopt a further resolution declaring that from and after a future date stated further in the resolution, the benefits of the resolution described in the first

paragraph of this section shall not be available to any employees who are hired by the county or district after that date.

(Amended by Stats. 1969, Ch. 978, Sec. 1)

§31641.96. Prior service contributions in counties with specified retirement formulas

Notwithstanding any other provisions of this chapter, Section 31641.9 shall not be applicable to any county subject to the provisions of Section 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, or 31676.15.

(Amended by Stats. 1977, Ch. 252, Sec. 3)

§31641.97. Credit for prior military service; application and purpose of section (San Mateo)

(a) This section shall be applicable in the retirement system of any county of the 10th class, as defined by Sections 28020 and 28031, as amended by Chapter 1204 of the Statutes of 1971, if the board of supervisors adopts, by majority vote, a resolution implementing this section.

(b) The purpose of this section is to authorize persons hired by the county before January 1, 1993, and employed by the county on December 31, 1992, to receive credit in the retirement system for prior military service by contributing to the retirement system an amount equal to the full cost, including interest, of the employee and county liability for the additional credit.

(c) Notwithstanding any other provision of this chapter, an eligible person must meet the following requirements in order to receive credit for prior military service:

(1) The person must have been hired by the county before January 1, 1993, and must have been an active employee on December 31, 1992.

(2) The person must file written notice with the retirement board before January 1, 1995, electing to receive credit and providing such information as the board may require.

(3) The person must contribute to the retirement system prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed five years, an amount equal to the full cost, including interest, of the employee and county liability for the additional credit.

(4) The person must not be entitled to receive a pension or retirement allowance for the prior military service and must provide the certification required by Section 31641.4.

(5) A person who was hired by the county before January 1, 1993, who was actively employed by the county on December 31, 1992, and who retired or elected deferred retirement after December 31, 1992, and before December 31, 1993, may also elect to receive credit under this section by filing the written notice and making the entire contribution before July 1, 1994, less whatever additional amounts would have been paid to that person by the retirement system if the person had made the entire contribution prior to retirement.

(d) The board of supervisors may include additional terms and conditions in the resolution implementing this section, provided the terms and conditions do not include the system paying for any of the employee or county cost of the military service credit.

(e) The full cost, including interest, of the employee and county liability for the additional credit under this section shall be determined by the board of retirement on actuarial advice, and shall be the actuarial equivalent of the difference between the retirement benefits the person will receive after receipt of credit for prior military service under this section and the retirement benefits the person would have received without that credit.

(Added by Stats. 1993, Ch. 906 (AB 557), Sec. 2.7)

§31642. Continuity of service; designation of matters not breaking continuity

The following shall not be considered as breaking the continuity of service:

(a) A temporary layoff because of illness or for purposes of economy, suspension, or dismissal, followed by reinstatement or re-employment within one year.

(b) A leave of absence followed by reinstatement or re-employment within one year after the termination of the leave of absence.

(c) A resignation to enter, followed by entrance into, the armed forces of the United States, followed by re-employment by the county or district within six months after the termination of such service.

(d) Resignation of a member who has elected in writing to come within the provisions of Article 9 followed by re-employment before withdrawal of any accumulated contributions.

The withdrawal of accumulated contributions followed by redeposit of the contributions upon re-entrance into service does not constitute a break in the continuity of service.

(Amended by Stats. 1951, Ch. 596, Sec. 6)

§31643. "Prior service" defined

Unless otherwise provided in the regulations of the board, "prior service" means service prior to the date of entry of a member into the retirement system.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31644. Prior service; regulations

In its regulations the board may provide what service shall constitute prior service. Such service may include employment which is not service as defined in Sections 31641 and 31642.

(Amended by Stats. 1967, Ch. 628, Sec. 2)

§31645. Credit for prior service; requirements

Except as provided in Sections 31641.5 or 31648 credit for prior service, whether interrupted or not, shall be granted to each person who has rendered such service as defined in or pursuant to this chapter, and who has become a member of the retirement system within one year after it becomes operative or at any time prior to October 1, 1953, whichever is the later, or within six months after discharge from military service.

One who performed service otherwise qualifying for credit under this section, who re-entered county employment subsequent to September 1, 1953 and prior to December 31, 1953, shall receive credit for such service, subject to Section 31648, provided such person is employed, as of the effective date of this section in a position for which service credit is given under this article.

(Amended by Stats. 1963, Ch. 1199, Sec. 1)

§31645.5. Prior service; nonprofit corporations operating museums under contracts with counties; county economic development associations

Prior service includes service rendered for a district as defined by subdivisions (i) and (j) of Section 31468 at any time after the date of execution of the first contract between the county and the nonprofit corporation relative to the operation of one or more museums or after the date of employment with the economic development association.

(Added by Stats. 1987, Ch. 478, Sec. 2)

§31646. Credit for uncompensated leave of absence for illness; conditions

(a) A member who returns to active service following an uncompensated leave of absence on account of illness may receive service credit for the period of the absence upon the payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(b) (1) A member who returns to active service following an uncompensated leave of absence on account of parental leave may receive service credit for the period of the absence upon the payment of the contributions that the member and the employer would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. For purposes of this subdivision, parental leave is defined as any time, up to one year, during which a member is granted an approved maternity or paternity leave and returns to employment at the end of the approved leave for a period of time at least equal to that leave. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(2) This subdivision shall not be operative until the board of supervisors, by resolution adopted by majority vote, makes the provisions applicable to that county and applies it to parental leave that commences after the adoption by the board of supervisors.

(c) (1) A member who returns to active service following an uncompensated leave of absence on account of the serious illness of a family member when the absence is eligible for coverage under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.) or the Moore-Brown-Roberti Family Rights Act, commonly referred to as the California Family Rights Act, as described in Section 12945, may receive service credit for the period of the absence upon the payment of the contributions that the member and the employer would have paid during that period, together with the interest that the contributions would have earned had the contributions been on deposit, if the member was not absent. For purposes of this subdivision, "leave of absence on account of illness of a family member" means any time, up to one year, during which a member is granted an approved leave to care for a seriously ill family member and returns to employment at the end of the approved leave for a period of time at least equal to that leave. The contributions required to receive the service credit may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(2) This subdivision shall not be operative until the board of supervisors, by resolution adopted by majority vote, makes the provisions applicable to that county and applies it to leave that commences after the adoption by the board of supervisors.

(Added by Stats. 1977, Ch. 975, Sec. 1)
(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 35)
(Amended by Stats. 2022, Ch. 524 (AB 1971), Sec. 1)

§31646.1. Return to active service; service credit for period following that in which member received temporary disability benefits; conditions

A member who returns to active service following an uncompensated leave of absence on account of illness or injury arising out of and in the course of employment which exceeds 12 consecutive months and for which the member receives temporary disability benefits pursuant to the Labor Code during the absence may receive service credit for the full period in excess of 12 consecutive months during which the member received temporary disability benefits pursuant to the Labor Code upon the payment of the contributions which the member would have paid during that period, together with the interest which the contributions would have earned had they been on deposit, if the member was not absent, provided, that the member has rendered sufficient service, other than the service for which credit in excess of 12 consecutive months is to be purchased pursuant to this section, to meet the minimum service credit requirements for benefits. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

(Added by Stats. 1988, Ch. 81, Sec. 2)

§31646.2 Service credit; temporary mandatory furlough

(a) The board may grant a member who is subject to a temporary mandatory furlough the same service credit and compensation earnable or pensionable compensation to which the member would have been entitled in the absence of the temporary mandatory furlough. The board may condition this grant on the receipt of additional member or employer contributions, or both as applicable, that the board determines are necessary to fund any benefits granted under this section on an actuarially sound basis.

(b) For the purposes of this section, "temporary mandatory furlough" means the time during which a member is directed to be absent from work without pay for up to one quarter of the member's normal working hours, provided that these reduced working hours shall not be in place for longer than two years.

(Added by Stats. 2022, Ch. 524 (AB 1971), Sec. 2)

§31646.5. Service credit for uncompensated leave

(a) A member who wishes to apply for a nonservice-connected disability retirement allowance may, to the extent necessary to qualify for that allowance, receive service credit for a period of continuous, uncompensated leave immediately preceding the filing of the application upon satisfaction of all of the following:

(1) The member has exhausted all compensated leave, including any catastrophic leave to which the member may be eligible.

(2) The leave of absence was due to the member's medical condition that has been determined by the board to be a terminal illness.

(3) Payment by the member of the contributions the member would have paid during the leave of absence, together with interest those contributions would have earned had they been on deposit if the member were not absent. The contributions may be paid in a lump sum, or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed; provided, however, that payment shall be completed prior to the effective date of the member's retirement, or in accordance with Section 31485.7 or 31485.8 if either section has been adopted by the board of supervisors.

(b) Credit may not be received pursuant to this section for a period in excess of 12 consecutive months.

(c) This section shall not apply in any county unless and until it is adopted by a majority vote of the board of supervisors.

(Added by Stats. 1999, Ch. 271 (AB 814), Sec. 1)

§31647. Time not in service not credited

A person is not entitled to credit as prior service for time during which he was not in service as defined in this chapter.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31648. Conditions for prior service credit of persons subsequently electing membership

If any officer or employee not previously included within the field of membership of the association is brought within the field of membership or if any elected official chooses to come within the field of membership subsequent to the establishment of the association, he shall not receive credit for service or for prior service unless either (1) he elects to and does pay into the association within one year thereafter, or within such longer time as is provided in the

regulations of the board, and before an application for retirement is filed, an amount equal to the contributions he would have made if he had been a member of the association from the date of its organization, or from the date of his entry into county service, whichever is the later, together with regular interest thereon or (2) the governing body, by a four-fifths vote, provides that it shall make, on behalf of all such officers or employees eligible to receive credit for prior service under this section and who so elect subsequent to the effective date of the amendment to this section at the 1963 Session of the Legislature, all or a part of the contributions to the association that the officer or employee would be required to make for his prior service, except that the contributions made by the governmental agency pursuant to this section shall be available only for the purpose of retirement for service or for disability and a member resigning from county service shall be entitled to withdraw only that portion of his accumulated contributions made by him.

(Amended by Stats. 1963, Ch. 1473, Sec. 1)

§31648.2. Transfer of firefighting services to district participating in county retirement system; apportionment of liability between two retirement systems

In any county in which the board of supervisors has entered into an agreement as permitted by Section 20569.1, the governing body of the contracting agency from which the firemen were transferred or the governing body of the district to which the firemen were transferred may pay all or part of the cost, as determined by the board, of the liabilities which were assumed by the county system under Section 20569 and which exceed the value of the cash or securities or both transferred by the Public Employees' Retirement System to the county system. The governing bodies of the contracting agency and of the district may determine the proportion of the liabilities each pays.

(Added by Stats. 1974, Ch. 1343, Sec. 2, Effective September 26, 1974)

§31648.3. Full-time employee returned to work after layoff; service credit for period of absence; operative provisions of section

A member who is a full-time employee and returns within 12 months of the date of layoff to full-time service following a period of layoff commencing on or after January 1, 1981, but not to exceed 12 months, may receive service credit for the period of the absence, but not to exceed one year, upon the payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. The contributions may be paid in lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. The service credit provided by this section shall be provided only to persons who have returned to employment under the procedures of the employer for returning laid-off employees to work and shall not exceed one year of service credit for each layoff period. The decision of the member to redeposit withdrawn contributions shall be made within five years from the date the member is rehired or the effective date of the adoption by the county board of supervisors of this section. Upon completion of the redeposit with interest, the entry age of the member shall be adjusted to the original age of entry and membership is reestablished to that date.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

(Amended by Stats. 1993, Ch. 284 (AB 1237), Sec. 1)

§31648.4. Cost of liabilities assumed by county after termination; payment

In any county in which the board of supervisors has entered into an agreement as permitted by Section 20569.2, the governing body of the contracting agency from which the

employees were transferred or the governing body of the district or the county service area to which the employees were transferred may pay all or part of the cost, as determined by the board, of the liabilities which were assumed by the county system under Section 20569 and which exceed the value of the cash or securities of both transferred by the Public Employees' Retirement System to the county system.

The governing bodies of the contracting agency and of the district or the county service area may determine the proportion of the liabilities each pays.

(Added by renumbering Section 31648.3 (as added by Stats. 1984, Ch. 1403) by Stats. 1986, Ch. 248, Sec. 85)

§31648.5. Conditions for prior service credit of elective officers

Any elective officer (a) who has filed a declaration of election to become a member of a county retirement association established pursuant to this chapter and (b) who rendered any county service after the effective date of the system so established and prior to the effective date of his membership in the association and (c) who would not otherwise be entitled to credit for such service, shall be entitled to credit for such service as current service if he contributes to the retirement association the contributions which he would have made if he had been a member of the association during the time such service was rendered, together with regular interest thereon.

(Amended by Stats. 1970, Ch. 369, Sec. 5)

§31648.6. Fractional month

Any elective officer whose term of office expires at a time when the total period of his incumbency divided into months results in a fractional month greater than 20 days shall be deemed to have rendered service sufficient to receive credit for a full month provided that such officer contributes to the retirement association prior to the receipt of the first payment of his retirement allowance the contributions required for that month.

(Added by Stats. 1963, Ch. 794, Sec. 1)

§31648.55. Credit for previous as current service; elective officer with break in service; conditions

Any member who is an elective officer, and who has had a break in service, may receive credit for the previous service as current service, if all of the following conditions are met:

(a) The member serves in the same office.

(b) The service is not a basis for any other present or future public retirement benefits.

(c) The member, prior to the effective date of retirement, by lump-sum payment or by installment over a period not to exceed five years, (1) contributes an amount equal to twice the contributions the members would have made to the retirement fund if the member had been a member during the same length of time as that for which the member has elected to receive credit as service, computed by applying the rate of contribution first applicable to the member upon commencement of membership and (2) pays any interest that would have accrued to that amount.

This section shall not be operative in any county, until adopted by the resolution of the board of supervisors.

(Added by Stats. 1981, Ch. 1104, Sec. 1)

§31649. Military service; compliance with USERRA; credit for service

(a) This chapter shall comply with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as amended from time to time. Any member who was absent from county or district employment for military service and is eligible for reemployment benefits pursuant to USERRA, may, as provided in USERRA, make contributions and receive

service credit for the time absent.

(b) Any member who does not qualify for reemployment benefits under subdivision (a) due to the length of the military service, and who returns to county or district employment within one year of being honorably discharged from the Armed Forces of the United States, shall receive credit for service for all or any part of the member's military service, if, before retirement from the county or district, the member contributes what they would have paid to the fund for that period based on the member's compensation earnable, as defined by Section 31461, or pensionable compensation, as defined in Section 7522.34, whichever is applicable, at the time of the beginning of the absence together with applicable interest on that amount.

(c) Nothing in this section shall affect any arrangement to pay contributions pursuant to Section 31653.

(Amended by Stats. 1957, Ch. 479, Sec. 1)
(Amended by Stats. 1996, Ch. 680 (SB 1877), Sec. 12)
(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 5)
(Repealed by Stats. 2020, Ch. 275 (AB 2101), Sec. 36)
(Added by Stats. 2020, Ch. 275 (AB 2101), Sec. 37)

§31649.1. Reemployment of member; notification to system; notification of right to purchase service credit

Any employer who reemploys a member who is subject to the provisions of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, shall, within 30 days after the date of that reemployment, provide information in writing as required by the board notifying the system of that reemployment, and shall provide the returning employee written notification of the right to purchase that service credit.

(Added by Stats. 1996, Ch. 680 (SB 1877), Sec. 13)

§31649.5. (Repealed effective January 1, 2021) Service with Armed Forces of the United States; credit for service and prior service; contributions

Notwithstanding Section 31649, any member who resigned, or obtained a leave of absence, to enter and did enter the Armed Forces of the United States on a voluntary or involuntary basis and returned to county service within one year after separation therefrom, under honorable conditions, shall receive credit for service and prior service for all or any part of his or her military service, if, before retirement from the county, he or she contributes what he or she would have paid to the fund based on his or her compensation earnable pursuant to Section 31461 at the time he or she resigned or received the leave of absence, together with regular interest thereon, and if, when he or she contributes, the military service is not a basis for present or future military retirement pay.

(Amended by Stats. 1975, Ch. 594, Sec. 1)
(Amended by Stats. 1996, Ch. 680, Sec. 14)
(Amended by Stats. 2014, Ch. 740 (AB 2473), Sec. 8)
(Repealed by Stats. 2020, Ch. 275 (AB 2101), Sec. 38)

§31649.6. (Repealed effective January 1, 2021) Resignation from county service; receiving credit for service

(a) Notwithstanding Section 31649 or 31649.5, a member who resigned from county service, or who obtained a leave of absence from county service, to enter and did enter the Armed Forces of the United States on a voluntary or involuntary basis and who then returned to county service within one year after separation from the Armed Forces under honorable conditions, shall receive credit for service and prior service for all or any part of his or her military service, if, before retirement from the county, he or she contributes what he or she would have paid to the fund based on his or her compensation earnable pursuant to Section

31461 or pensionable compensation as defined in Section 7522.34, whichever is applicable, at the time he or she resigned or obtained the leave of absence, together with regular interest thereon.

(b) This section shall not be operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

(Added by Stats. 2007, Ch. 355 (SB 14), Sec. 28)

(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 6)

(Repealed by Stats. 2020, Ch. 275 (AB 2101), Sec. 39)

§31650. (Repealed effective January 1, 2021) Deduction of past due contributions from returning service man not making required election

Unless the returning member reenters the service as a new member or files an election pursuant to Section 31649, the county auditor or other officer charged with the duty of drawing salary or wage warrants shall deduct past due contributions pursuant to the regulations of the board, or if there are no such regulations pursuant to this chapter. The filing of an election shall apply only to salary or wage warrants delivered 30 or more days after the filing of an election, and no deduction legally made shall be refunded because of an election.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Repealed by Stats. 2020, Ch. 275 (AB 2101), Sec. 40)

§31651. (Repealed effective January 1, 2021) Deduction of current contributions from pay of returning member

If the returning member files an election pursuant to Section 31649, the auditor or other officer charged with the duty of drawing salary or wage warrants shall deduct current contributions only from salary or wage warrants delivered 30 or more days after the filing of the election. Member contributions shall be calculated upon the basis of the age of the member upon his or her first entry into the retirement system.

(Amended by Stats. 1992, Ch. 132 (SB 1508), Sec. 1, Effective January 1, 1993)

(Repealed by Stats. 2020, Ch. 275 (AB 2101), Sec. 41)

§31652. Eligibility for benefits on repayment of amounts withdrawn or fulfilling other conditions on re-entry into retirement system

(a) Any member may redeposit in the retirement fund, prior to filing an application for retirement, by lump sum payment or by installment payments over a period of one year or for a longer time upon approval of the board, an amount equal to all of the accumulated normal contributions which he has withdrawn, plus regular interest thereon from the date of separation from the retirement system, and his membership is the same as if unbroken by such termination. Except as provided in this section his rate of contribution shall be based on age at the nearest birthday at time of reentrance into the system. If he does not redeposit all of the accumulated normal contributions previously withdrawn he shall be considered as a new member without credit for any previous service.

"Regular interest" as used in this section shall mean that amount of interest which would have been credited to the account of the member on the amount to be deposited at the interest rates established for the system if the contributions required by this section had been on deposit from the date of separation from the retirement system until the amount required to be deposited has been paid.

(b) Any member who left county service on or before December 31, 1971, and thereafter again became a member of the county system which he left and (1) who did not withdraw his accumulated normal contributions or (2) who elected to leave his accumulated normal contributions on deposit pursuant to Article 9 (commencing with Section 31700), or (3)

who redeposited or redeposits withdrawn accumulated normal contributions plus interest as authorized in this section, shall be eligible for all benefits granted a member entering a reciprocal retirement system under Article 15 (commencing with Section 31830), including the benefits granted to members who left their accumulated contributions on deposit or who redeposited their accumulated contributions pursuant to Section 31831.1. This paragraph shall not be applicable to any member entering service after December 31, 1977.

(c) Any member who left county service on or after January 1, 1972, and who within 90 days thereafter again became a member of the county system which he left and (1) who did not withdraw his accumulated normal contributions, or (2) who elected to leave his accumulated normal contributions on deposit pursuant to Article 9 (commencing with Section 31700), or (3) who redeposits or redeposited his withdrawn accumulated normal contributions plus interest as authorized by Section 31652 within 180 days after leaving county service, shall be eligible for all benefits granted a member entering a reciprocal retirement system under Article 15 (commencing with Section 31830), except that Section 31831.1 shall not apply to such members.

(d) This section shall not apply to members who are retired or who are not in service of an employer making him a member of this system.

(Amended by Stats. 1978, Ch. 141, Sec. 1)

§31652.1. Redeposit of withdrawn normal contributions; regular interest; election not to withdraw or to leave contributions on deposit; applicability of section (Los Angeles)

(a) Any member may redeposit in the retirement fund, prior to filing an application for retirement, by lump-sum payment or by installment payments over a period of one year or for a longer time upon approval of the board, an amount equal to all of the accumulated normal contributions which he has withdrawn, plus regular interest thereon from the date of separation from the retirement system, and his membership is the same as if unbroken by such termination. Except as provided in this section his rate of contribution shall be based on age at the nearest birthday at time of reentrance into the system. If he does not redeposit all of the accumulated normal contributions previously withdrawn he shall be considered as a new member without credit for any previous service.

"Regular interest" as used in this section shall mean that amount of interest which would have been credited to the account of the member on the amount to be deposited at the interest rates established for the system if the contributions required by this section had been on deposit from the date of separation from the retirement system until the amount required to be deposited has been paid.

(b) Any member who left county service on or before December 31, 1974, and thereafter again became a member of the county system which he left and (1) who did not withdraw his accumulated normal contributions, or (2) who elected to leave his accumulated normal contributions on deposit pursuant to Article 9 (commencing with Section 31700), or (3) who redeposited or redeposits withdrawn accumulated normal contributions plus interest as authorized in this section, shall be eligible for all benefits granted a member entering a reciprocal retirement system under Article 15 (commencing with Section 31830), including the benefits granted to members who left their accumulated contributions on deposit or who redeposited their accumulated contributions pursuant to Section 31831.1. This paragraph shall not be applicable to any member entering service after December 31, 1979.

(c) Any member who left county service on or after January 1, 1975, and who within 90 days thereafter again became a member of the county system which he left and (1) who did not withdraw his accumulated normal contributions, or (2) who elected to leave his accumulated normal contributions on deposit pursuant to article 9 (commencing with Section 31700), or (3) who redeposits or redeposited his withdrawn accumulated normal contributions plus interest as authorized by Section 31652 within 180 days after leaving county service, shall be eligible for all benefits granted a member entering a reciprocal retirement system under Article 15

(commencing with Section 31830), except that Section 31831.1 shall not apply to such members.

(d) This section shall not apply to members who are retired or who are not in service of an employer making him a member of this system.

(e) This section shall apply only in a county of the first class, as established by Sections 28020 and 28022 but shall not be operative in a county until adopted by resolution of the board of supervisors.

(Added by Stats. 1982, Ch. 991, Sec. 1)

§31652.2. Credit for prior county retirement system service; reentry by employment with public agency contracting with public employees' retirement system; redeposit of withdrawn contributions; applicability of section (Los Angeles)

(a) Any member of a retirement system established pursuant to this chapter who was previously a member of the same county retirement system and who thereafter became a member of the Public Employees' Retirement System as a result of employment by a public agency contracting with the Public Employees' Retirement System, shall receive credit in the county retirement system for service rendered as an officer or employee of such public agency provided that he or she makes the contributions specified by Section 31641.2, and provided further that he or she is not entitled to receive any other pension or retirement allowance from any public agency for such service.

(b) Notwithstanding any other provision of law, any person who would otherwise qualify under subdivision (a) who elected to leave his or her contributions on deposit with the Public Employees' Retirement System and receive the benefits of reciprocity, may rescind that election and withdraw his or her contributions plus accrued interest from the Public Employees' Retirement System and deposit the same in the county retirement system of which he or she is a member as payment in full or in part for the service credit described in this section. The person shall not thereafter have the right to redeposit the withdrawn contributions in the Public Employees' Retirement System or to receive any credit for such service in that system. Any member of a county retirement system who is eligible to receive credit for other public service pursuant to this section shall receive the benefit of any motion or resolution adopted by the board of supervisors pursuant to subdivision (c) of Section 31641.2 which was in effect during the member's county service.

(c) This section shall apply only in a county of the first class, as established by Sections 28020 and 28022, but shall not be operative in a county until adopted by resolution of the board of supervisors.

(Added by Stats. 1982, Ch. 991, Sec. 2)

§31653. Contributions by governing board for member reentering public service after absence in military service; credit for military service time

Notwithstanding this article, the governing board of the county or district may elect to contribute for any member of this system who is absent from and reenters the service of the county or district pursuant to Section 31649 amounts equal to the contributions that would have been made by the member and the member's employer to the system on the basis of the member's compensation earnable at the commencement of the absence, if the member had not been so absent. If the governing board elects to make any member's contributions pursuant to this section:

(a) Any such member who exercises or did exercise the right to contribute to the system during the period of military service shall have those contributions refunded or credited to that member's account.

(b) Any such member who withdraws or has withdrawn accumulated contributions during military service and who does not or did not redeposit the amount withdrawn upon return to employment with the county or district is entitled to be credited with any contribution

the governing board elects to make, and to receive credit for service during the period of absence for military service, the same as if the member had not withdrawn accumulated contributions, and the rate for future contributions shall be based upon the member's age at the commencement of the absence for military service.

(c) The contributions made by the governing board pursuant to this section shall be available only for the purpose of retirement for service or for disability, and shall be made available only for the purpose of retirement, and a member resigning from the service of the county or district after reinstatement from military service shall be entitled to withdraw only that portion of accumulated contributions personally made by the member.

(d) This section shall be retroactively applied to extend its benefits to such members of this system as the governing board may determine whose absence from county service on military service commenced on or after September 16, 1940, and who return or have returned to this service upon the termination of their military service.

(e) This section does not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1).

(Amended by Stats. 1969, Ch. 978, Sec. 2)
(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 7)
(Amended by Stats. 2017, Ch. 561 (AB 1516), Sec. 89)

§31654. Persons reemployed by county after resumption of aid to needy and blind; credit for state service

Whenever, as a result of the resumption by the counties pursuant to Article XXVII of the Constitution of functions relating to the administration of aid to the aged and aid to the needy blind theretofore performed by the state, any person ceases to be employed by the state and is employed by a county in which this chapter has become operative, the person shall become a member of the retirement association of the county immediately upon is entrance into the county service.

Any such member of a county retirement system shall be entitled to credit in the county retirement system for service for which he was entitled to credit in the Public Employees' Retirement System at the time of cessation of his employment by the state, without the necessity of payment of any additional contributions in respect to that service, when and if (a) the board of retirement receives certification from the Board of Administration of the Public Employees' Retirement System of the state service with which the person was entitled to be credited by the Public Employees' Retirement System at the time of cessation of his state employment; and (b) there is paid into the employees' retirement fund of the county an amount equal to the normal contributions of the person to the Public Employees' Retirement System, together with the interest credited thereto, which amount shall be credited to the individual account of the member in the county employee's retirement system, and shall thereafter for all purposes be deemed to be the member's contribution to the county retirement system in respect to the service so certified; and (c) there is paid into the employees' retirement fund of the county an additional amount equal to the amount of such normal contributions, together with the interest credited thereto, which additional amount shall thereafter for all purposes be deemed to be the contributions of the employer county to the county retirement system in respect to the service so certified.

(Amended by Stats. 1968, Ch. 1046, Sec. 1)

§31655. War relocation absence; credit; election to make contributions and interest payments; adoption of section by resolution

Any member may receive credit for war relocation absence if the member elects to pay and does pay prior to retirement into the retirement fund an amount equal to the contributions

the member would have made to the fund on the member's compensation earnable at the time of the absence together with regular interest thereon.

"War relocation absence" means the period of absence from county service occasioned by the evacuation and relocation of a member pursuant to orders issued by the commanding officer of the Western Defense command in March 1942, for the evacuation of persons of Japanese descent from such area, where the member was in county service on March 5, 1942, and later returned to county service prior to July 1, 1947.

This service shall not be operative in any county until adopted by resolution of the board of supervisors.

(Added by Stats. 1976, Ch. 1027, Sec. 3)

§31656. Extension of service credit to employee on authorized leave of absence to serve as official of recognized employee bargaining unit; application to county

Nothing in this chapter shall be construed to prohibit any district established pursuant to Part 4 (commencing with Section 40000) of Division 10 of the Public Utilities Code, from extending retirement service credit pursuant to Section 40127 of the Public Utilities Code to any employee of the district who is on an authorized leave of absence to serve as an official of a recognized employee bargaining unit, under all of the following conditions:

(a) The employee agrees to pay the total contributions that would otherwise be paid if the employee were not on leave, as well as any additional costs which may accrue to the system as a result of this extension of coverage.

(b) The maximum service credit accumulated under this section shall not exceed 12 years.

(c) Employees covered under this section shall not be eligible for disability benefits under any public employees' retirement system in this state while on such leave of absence. This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in the county.

(Amended by Stats. 1989, Ch. 448, Sec. 1)

(Amended by Stats. 2014, Ch. 740 (AB 2473), Sec. 9)

§31657. Assumption by county or district of safety functions; cessation of city employment; membership in county retirement association

Subject to Section 20588, whenever, as a result of the assumption by a county, fire authority, or district of firefighting or law enforcement functions performed by a public agency or the state subject to the Public Employees' Retirement Law, any person ceases to be employed by a public agency or the state and is employed by a county, fire authority, or district in which this chapter has become operative, that person shall become a member of the retirement system of a county immediately upon entering county service. That member of the county retirement system shall be entitled to service credit in the county retirement system for the service for which he or she was entitled to credit in the Public Employees' Retirement System at the time of cessation of employment by the public agency or the state, without necessity of payment of any additional contributions in respect to that service, when and if all of the following occur:

(a) The board of retirement receives certification from the Board of Administration of the Public Employees' Retirement System of the service with which the person was entitled to be credited by the Public Employees' Retirement System at the time of cessation of his or her public agency or state employment.

(b) There is paid into the county retirement fund of the county, an amount equal to the normal contributions of the person to the Public Employees' Retirement System, together with all interest credited thereto, which amount shall be credited to the individual account of the member in the county retirement system, and shall thereafter for all purposes be deemed to be the member's contribution to the county retirement system with respect to the service so

certified.

(c) There is paid to the retirement system of the county an amount equal to all contributions of the public agency or the state made to the Public Employees' Retirement System on account of service rendered by the person together with interest credited to the public agency or the state thereto.

(d) The board of retirement elects to apply this section as a prudent means of mitigating against potential adverse financial impact upon the county retirement system from the cost of disability retirements that may be applied for in the future by persons injured while being employed by the county, fire authority, or district after ceasing to be employed by a public agency or the state as a result of the assumption by a county, fire authority, or district of firefighting or law enforcement functions.

This section shall apply in a county of the first, the second, the seventh, or the fourteenth class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, and Sections 28023, 28028, and 28035, as amended by Chapter 1204 of the Statutes of 1971.

(Added by Stats. 1990, Ch. 419 (AB 2819), Sec. 6)
(Amended by Stats. 1997, Ch. 832 (AB 355), Sec. 2)
(Amended by Stats. 1998, Ch. 116 (AB 2763, Sec. 2)
(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 4)
(Amended by Stats. 2001, Ch. 793 (AB 1683), Sec. 41)
(Amended by Stats. 2015, Ch. 86 (AB 868), Sec. 2)

§31657.1. Assumption by county or district of safety functions performed by city; cessation of city employment; membership in county retirement association; service credits; applicability of section; duration of section (Santa Barbara)

Subject to Section 20569.4, whenever, as a result of the assumption by a county or district of firefighting or law enforcement functions performed by a city subject to the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2), any person who ceases to be employed by a city and who is employed by a county or district in which this chapter has become operative, that person shall become a member of the retirement association of a county immediately upon entrance to the county service. That member of the county retirement system shall be entitled to service credit in the county retirement system for the service for which he or she was entitled to credit in the Public Employees' Retirement System at the time of cessation of employment by the city, without necessity of payment of any additional contributions in respect to that service, when and if all of the following occur:

(a) The board of retirement receives certification from the Board of Administration of the Public Employees' Retirement System of the service with which the person was entitled to be credited by the Public Employees' Retirement System at the time of cessation of his or her city employment.

(b) There is paid into the county retirement fund of the county, an amount equal to the normal contributions of the person to the Public Employees' Retirement System, together with the interest credited thereto, which amount shall be credited to the individual account of the member in the county retirement system, and shall thereafter for all purposes be deemed to be the member's contribution to the county retirement system with respect to the service so certified.

(c) There is paid to the retirement system of the county an amount equal to the contributions of the city made to the Public Employees' Retirement System on account of service rendered by the person together with interest credited to the city thereto.

(d) The board of retirement performs an actuarial analysis of the transactions required by this section and all related costs of the actuarial analysis shall be paid for by the city. Any liability identified by the actuarial analysis that is not covered by the revenues received by the county retirement fund pursuant to this section from the Public Employees' Retirement System

shall be paid by the city in a manner acceptable to the board of retirement.

(e) The board of retirement approves all transactions required by this section.

This section shall apply only to a county of the 16th class, as defined by Section 20820, as amended by Chapter 1204 of the Statutes of 1971, and Section 20837, as amended by Chapter 1204 of the Statutes of 1971.

This section shall not be operative in a county until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

(Added by Stats. 1993, Ch. 684 (AB 1192), Sec. 3)

(Repealed by its own terms, January 1, 1998)

§31658. Election to make contributions pursuant to this section; receipt of service credit for additional retirement credit; limitations

(a) An active member may elect, by written notice filed with the board, to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service or disability retirement or for purposes of establishing eligibility for any benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) Any member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for any additional retirement credit for which he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative in any county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(h) Pursuant to Section 7522.46, this section shall apply only to an application to purchase additional retirement credit that was received by the retirement system prior to January 1, 2013, that is subsequently approved by the system.

(Added by Stats. 2003, Ch. 261 (AB 55), Sec. 3, Effective September 4, 2003)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 23)

Article 7.5

Retirement of Safety Members for Service

(Article 7.5 added by Stats. 1951, Ch. 1098, Sec. 24)

§31662. Application

This article shall apply in a county subject to the provisions of Sections 31676.1 and 31695.1.

(Amended by Stats. 1957, Ch. 568, Sec. 7)

§31662.2. Retirement of safety member

(a) Retirement of a safety member in a county subject to the provisions of Section 31676.1, or of Section 31695.1, if applicable, who has met the requirements for age and service shall be made by the board pursuant to this article or pursuant to the California Public Employees' Pension Reform Act of 2013, whichever is applicable.

(b) The board may authorize the system administrator or other personnel to exercise the board's power and perform its duty to retire members under this section. The system administrator or other personnel shall report service retirements to the board at the next public meeting of the board after the retirement.

(Added by Stats. 1951, Ch. 1098, Sec. 24)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 24)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 42)

§31662.4. Age for retirement; exceptions; adoption of resolution by county

At the expiration of two years after a retirement system pursuant to this chapter becomes operative, or on January 1, 1954, whichever is later, every safety member except an elective officer, the sheriff and undersheriff, who has attained age 60 shall be retired forthwith. On the said date a sheriff who is a safety member, is not an elective officer, and who has attained age 70 and an undersheriff who is a safety member and who has attained age 70 shall be retired forthwith.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

(Amended by Stats. 1986, Ch. 840, Sec. 6)

§31662.6. Time for retirement; exceptions; adoption of resolution by county

Two years after a retirement system established by this chapter becomes operative, a safety member except an elective officer, the sheriff and undersheriff, and the marshal appointed to serve the superior court within the county, shall be retired as of the first day of the calendar month next succeeding that in which he or she attains age 60.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

(Amended by Stats. 1986, Ch. 840, Sec. 7)

(Amended by Stats. 2002, Ch. 784 (SB 1316), Sec. 190)

§31662.8. Safety member holding elective office; time for retirement; adoption of resolution by county

Every safety member holding an elective office shall be retired at the end of the first

term to which he or she is elected which expires on the date following his or her seventieth birthday, except that if the term expires within two years after the date on which a retirement system becomes operative or prior to January 1, 1954, whichever is later, he or she shall be retired at the end of the next term to which he or she is elected.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

(Amended by Stats. 1986, Ch. 840, Sec. 8)

§31663. Time for retirement; sheriff, undersheriff, marshal, and inspectors; adoption of resolution by county

After January 1, 1954, or two years after a retirement system established by this chapter becomes operative, whichever is later, a sheriff who is a safety member and not elective, and an undersheriff, who is a safety member shall be retired as of the first day of the calendar month next succeeding that in which he or she attains age 70.

The marshal appointed to serve the superior court within the county who is a safety member shall be retired as of the first day of the calendar month next succeeding that in which he or she attains age 65.

In San Bernardino County, a sheriff's inspector, a chief inspector in a sheriff's office, or a chief deputy in a sheriff's office, who is a safety member and whose primary duties are administrative, shall be retired as of the first day of the calendar month next succeeding that in which the person attains age 70.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

(Amended by Stats. 1986, Ch. 840, Sec. 9)

(Amended by Stats. 2002, Ch. 784 (SB 1316), Sec. 190)

§31663.1. Applicability of Sections 31662.6 and 31663 to assistant sheriff or chief in sheriff's office; counties of the first class; operative effect (Los Angeles)

(a) Sections 31662.6 and 31663 shall not apply to an assistant sheriff or a chief in a sheriff's office who is a safety member and whose primary duties are administrative.

(b) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(c) This section shall not be operative in any county until the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

(Added by Stats. 2001, Ch. 33 (SB 304), Sec. 1, Effective July 3, 2001, as an urgency statute)

§31663.2. (Repealed January 1, 2010) Applicability of Sections 31662.4 and 31662.6 to certain fire chiefs (Los Angeles)

(a)(1) Sections 31662.4 and 31662.6 shall not apply to the fire chief of a fire district who is a safety member and whose primary duties are administrative, if the fire chief was employed as fire chief on May 1, 2005.

(2) A fire chief who is exempted from the requirements of Sections 31662.4 and 31662.6, pursuant to paragraph (1), shall retire before April 1, 2009, and, subsequent to the operative date of this section, that fire chief shall not receive a salary increase that is disproportionate to any salary increase granted to other department heads of the same

jurisdiction at the same time.

(b) This section applies only to a county of the first class, as defined by Sections 28020 and 28022.

(c) This section shall not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section applicable in the county.

(d) This section shall become inoperative on April 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

(Former Section 31663.2, relating to retirement of safety member, was added by Stats. 1951, Ch. 1098, Sec. 24, amended by Stats. 1953, Ch. 844, Sec. 1, and Repealed by Stats. 1969, Ch. 439, Sec. 6)

(Added by Stats. 2005, Ch.134 (AB 1769), Sec. 1, Effective July 27, 2005)

(Repealed by Stats. 2008, Ch. 21 (SB 579), Sec. 2, Effective June 2, 2008)

§31663.3. Counties over 199,000, but less than 200,000; employment of sheriff from year to year after attaining the age 70 (Ventura)

Notwithstanding any other provision of law, in any county having a population in excess of 199,000 but less than 200,000 as determined by Section 28020 as amended in 1961, an undersheriff upon attaining the age of 70 shall thereafter be employed from year to year at the discretion of the county.

(Added by Stats. 1971, Ch. 437, Sec. 1)

§31663.15. (Operation contingent) Active safety member, applicability of specified sections

(a) Sections 31662.4, 31662.6, 31662.8, and 31663 shall not apply to a person who is an active safety member described in Section 31469.3 or 31470.4 if a physician employed or approved by the county certifies that the safety member is capable of performing his or her assigned duties pursuant to standards set forth by the member's employer.

(b) This section shall also apply to a member who reinstates from retirement pursuant to Section 31680.8.

(c) A county that adopts this section shall provide a safety member who is on a disability leave of absence the opportunity to receive the physician certification described in subdivision (a) upon return from his or her leave, and that member shall not be subject to mandatory retirement pursuant to Section 31662.4, 31662.6, or 31662.8 prior to receiving that opportunity.

(d) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(e) This section shall not be operative in any county until the board of supervisors shall, by resolution adopted by a majority vote, make this section and Section 31680.8 applicable in the county. The resolution of the board of supervisors may designate a date, which may be prior to the date of the resolution or the effective date of this section, upon which the resolution and this section shall be operative in the county, and may further provide that a member, described in Section 31470.4, who retired pursuant to Section 31662.4 or 31662.6, prior to April 1, 2007, is not eligible to reinstate from retirement pursuant to Section 31680.8.

(Added by Stats. 2007, Ch. 290 (SB 134), Sec. 1)

(Amended by Stats. 2008, Ch. 21 (SB 579), Sec. 1, Effective June 2, 2008)

(Amended by Stats. 2009, Ch. 190 (SB 538), Sec. 1)

§31663.25. Application for retirement

(a) Except as provided in Section 31663.26, a safety member who has reached the

applicable compulsory age of retirement, if any, or a safety member who has completed 10 years of continuous service and who has reached the age of 50, or a safety member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which the member desires the member's retirement to become effective. The effective retirement date shall not be either of the following:

(1) Earlier than the date the application is filed with the board.

(2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

(b) This section shall not apply to a member who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) for all or any portion of that member's membership in the county retirement system.

(Amended by Stats. 1986, Ch. 840, Sec. 10)
(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 7)
(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 25)
(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 10)

§31663.26. Age and service requisites; application; time of filing; application of section

(a) Notwithstanding Section 31663.25, a safety member who has reached the applicable compulsory age of retirement, if any, or a safety member who is a full-time employee, has completed 10 years of service, has reached the age of 50, and has no service break which exceeds 12 months, or a safety member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which the member desires the member's retirement to become effective. The effective retirement date shall not be either of the following:

(1) Earlier than the date the application is filed with the board.

(2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

(b) This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make this section applicable in the county.

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

(Amended by Stats. 1986, Ch. 840, Sec. 11)
(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 8)
(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 26)
(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 11)

§31664. Current service and prior service pensions; additional pension to safety members

Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for safety members purchased by the contributions of the county or district sufficient when added to the service retirement annuity to equal the fraction of one-fiftieth of the member's final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year in the following table, multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the limitation of the safety member's final compensation as set forth in Section 31676.1 as it now reads or may hereafter be amended to read:

Age at retirement	Fraction
41	0.6258
41 1/4	0.6350
41 1/2	0.6442
41 3/4	0.6533
42	0.6625
42 1/4	0.6720
42 1/2	0.6814
42 3/4	0.6909
43	0.7004
43 1/4	0.7102
43 1/2	0.7200
43 3/4	0.7299
44	0.7397
44 1/4	0.7499
44 1/2	0.7601
44 3/4	0.7703
45	0.7805
45 1/4	0.7910
45 1/2	0.8016
45 3/4	0.8121
46	0.8226
46 1/4	0.8339
46 1/2	0.8452
46 3/4	0.8566
47	0.8678
47 1/4	0.8780
47 1/2	0.8882
47 3/4	0.8983
48	0.9085
48 1/4	0.9194
48 1/2	0.9304
48 3/4	0.9413
49	0.9522
49 1/4	0.9641
49 1/2	0.9761
49 3/4	0.9880
50	1.0000
50 1/4	1.0130
50 1/2	1.0259
50 3/4	1.0387

Age at retirement	Fraction
51	1.0516
51 1/4	1.0656
51 1/2	1.0796
51 3/4	1.0937
52	1.1078
52 1/4	1.1231
52 1/2	1.1384
52 3/4	1.1538
53	1.1692
53 1/4	1.1859
53 1/2	1.2028
53 3/4	1.2195
54	1.2366
54 1/4	1.2547
54 1/2	1.2730
54 3/4	1.2915
55 and over	1.3099

The fraction herein set forth shall be used until adjusted by each board for its retirement system in accordance with the interest and mortality tables adopted by that board.

Contributions shall not be made by safety members having credit for 30 years of continuous service.

(Amended by Stats. 1974, Ch. 1452, Sec. 2)

(Amended by Stats. 2001, Ch. 32 (AB 1682), Sec. 1)

§31664.1. Additional service pension

(a) This section may be made applicable in any county on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution providing that this section shall become applicable in the county.

(b) Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for safety members purchased by the contributions of the county or district sufficient when added to the service retirement annuity to equal 3 percent of the member's final compensation set forth opposite his or her age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement. In no event shall the total retirement allowance exceed the limitation of the safety member's final compensation as set forth in Section 31676.1, as it now reads or may hereafter be amended to read.

Age at retirement	Fraction
41	0.6258
41 1/4	0.6350
41 1/2	0.6442
41 3/4	0.6533
42	0.6625

Age at retirement	Fraction
42 1/4	0.6720
42 1/2	0.6814
42 3/4	0.6909
43	0.7004
43 1/4	0.7102
43 1/2	0.7200
43 3/4	0.7299
44	0.7397
44 1/4	0.7499
44 1/2	0.7601
44 3/4	0.7703
45	0.7805
45 1/4	0.7910
45 1/2	0.8016
45 3/4	0.8121
46	0.8226
46 1/4	0.8339
46 1/2	0.8452
46 3/4	0.8586
47	0.8678
47 1/4	0.8780
47 1/2	0.8882
47 3/4	0.8983
48	0.9085
48 1/4	0.9194
48 1/2	0.9304
48 3/4	0.9413
49	0.9522
49 1/4	0.9641
49 1/2	0.9761
49 3/4	0.9880
50 and over	1.0000

(c) Contributions shall not be made by safety members having credit for 30 years of continuous service.

(Added by Stats. 2000, Ch. 237 (AB 1937), Sec. 2)

§31664.2. Additional service pension

(a) This section may be made applicable in any county on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution providing that this section shall become applicable in the county.

(b) Notwithstanding any other provisions of this chapter, the current service pension or

the current service pension combined with the prior service pension is an additional pension for safety members purchased by the contributions of the county or district sufficient when added to the service retirement annuity to equal 3 percent of the member's final compensation set forth opposite his or her age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement. In no event shall the total retirement allowance exceed the limitation of the safety member's final compensation as set forth in Section 31676.1, as it now reads or may hereafter be amended to read.

Age at retirement	Fraction
41	0.4777
41 1/4	0.4848
41 1/2	0.4918
41 3/4	0.4987
42	0.5058
42 1/4	0.5130
42 1/2	0.5202
42 3/4	0.5274
43	0.5347
43 1/4	0.5422
43 1/2	0.5497
43 3/4	0.5572
44	0.5647
44 1/4	0.5725
44 1/2	0.5803
44 3/4	0.5881
45	0.5958
45 1/4	0.6039
45 1/2	0.6120
45 3/4	0.6200
46	0.6280
46 1/4	0.6366
46 1/2	0.6452
46 3/4	0.6555
47	0.6625
47 1/4	0.6703
47 1/2	0.6781
47 3/4	0.6858
48	0.6936
48 1/4	0.7019
48 1/2	0.7103
48 3/4	0.7186
49	0.7269

Age at retirement	Fraction
49 1/4	0.7360
49 1/2	0.7452
49 3/4	0.7543
50	0.7634
50 1/4	0.7733
50 1/2	0.7832
50 3/4	0.7930
51	0.8028
51 1/4	0.8135
51 1/2	0.8242
51 3/4	0.8349
52	0.8457
52 1/4	0.8574
52 1/2	0.8691
52 3/4	0.8808
53	0.8926
53 1/4	0.9053
53 1/2	0.9182
53 3/4	0.9310
54	0.9418
54 1/4	0.9579
54 1/2	0.9718
54 3/4	0.9860
55 and over	1.0000

(c) Contributions shall not be made by safety members having credit for 30 years of continuous service.

(Added by Stats. 2000, Ch. 237 (AB 1937), Sec. 3)

§31664.3. Prior service credit in computing benefits in counties exceeding 2,000,000; election of member; amount due (Los Angeles)

This section shall apply in any county having a population in excess of 2,000,000. A safety member shall receive no credit for prior service subsequent to June 30, 1921, and prior to January 1, 1938, in calculating a retirement allowance pursuant to this article unless prior to January 1, 1952, he files with the board his written election to pay into the retirement fund six dollars ($6) for each month of prior service for which he claims credit. If a safety member files an election pursuant to this section and has accumulated contributions to his credit as of December 31, 1937, which with interest to December 31, 1951, are less than payments due for prior service credit subsequent to June 30, 1921, the amount due or balance thereof shall be paid by additional salary deductions in the amounts specified by the member but in no case less than six dollars ($6) per month. The total amount due shall be paid prior to the effective date of his retirement. If the accumulated contributions with interest exceed the amount due for prior service credit the balance shall be refunded.

(Amended by Stats. 1953, Ch. 955, Sec. 4)

§31664.4. Contributions by former members of system; rate calculation

Any person who elects to become a safety member who was a former member of a retirement system established pursuant to Chapter 3 or Chapter 5 shall have his contributions to the retirement association for membership service prior to January 1, 1952, calculated by the same rates and under the same conditions as those applicable to a member of the retirement system established pursuant to Chapter 4.

(Amended by Stats. 1955, Ch. 370, Sec. 1)

§31664.5. Retirement upon completion of twenty-five years of service; option; minimum allowance

(a) Notwithstanding any other provisions of this chapter, a safety member may exercise the option of retiring upon completion of 25 years of service, and if such option is exercised, the safety member shall receive a retirement allowance equal to no less than 30 percent of his or her final compensation.

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

(Added by Stats. 1965, Ch. 738, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 27)

§31664.15. Half pay adjustment

Notwithstanding any other provisions of this chapter, a safety member who enters the system with credit for prior service and retires upon completion of 20 years of continuous service and a total of 25 years of service after attaining age 50 whose retirement allowance is less than one-half of his or her final compensation, his or her prior service pension shall be increased so as to cause his or her total retirement allowance to amount to one-half of that final compensation.

(Added by Stats. 1967, Ch. 550, Sec. 4)

(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 9)

§31664.65. Allowance of member having credit for time not safety member or member of established system

If a member retires with credit for time during which he or she was not a safety member or a member of a system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200), he or she shall receive for that time:

(a) A retirement allowance calculated pursuant to Section 31664 for time during which he or she was employed principally in active law enforcement or active fire suppression as described in Section 31470.2 or Section 31470.4 by a county, or by a district or court organized or existing within such county, or was a member of a system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200), plus a retirement allowance calculated under either subdivision (b) or (c), whichever is applicable.

(b) A retirement allowance calculated pursuant to Section 31664 for all prior county service with such county, and for any public service credit for which the member has elected to receive pursuant to Section 31641.1 or 31641.5.

This subdivision shall apply only to a member who, when the board of supervisors pursuant to Section 31695.1 provides that provisions of this chapter relating to safety members shall apply to all employees of the county whose principal duties consist of active law

enforcement or active fire suppression as defined in Section 31470.2 or 31470.4, was employed by the county principally in active law enforcement or active fire suppression as defined by such sections and who elected to be included within such safety member provisions at the time and in the manner prescribed by Section 31695.2.

(c) A retirement allowance calculated pursuant to Article 8 (commencing with Section 31670) for time during which he or she was not engaged principally in active law enforcement or active fire suppression as described in Section 31470.2 or 31470.4, nor a member of a system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200).

This subdivision shall apply to any member to whom subdivision (b) is not applicable.

The provisions of this section shall be applicable irrespective of whether a member is, at the time of retirement, a safety member or a general member.

(Amended by Stats. 1974, Ch. 481, Sec. 1)

(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 10)

Article 8

Retirement for Service

(Article 8 added by Stats. 1947, Ch. 424, Sec. 1)

§31670. Retirement for age and service

(a) Retirement of a member who has met the requirements for age and service shall be made by the board pursuant to this article or pursuant to the California Public Employees' Pension Reform Act of 2013, whichever is applicable.

(b) The board may authorize the system administrator or other personnel to exercise the board's power and perform its duty to retire members under this section. The system administrator or other personnel shall report service retirements to the board at the next public meeting of the board after the retirement.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 28)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 43)

§31671. Benefits computation; amount of compensation considered in determination; limitations

(a) The amount of compensation that is taken into account in computing benefits payable to any person who first becomes a member of the retirement system on or after July 1, 1996, or January 1, 1996, for systems operating on a calendar basis, shall not exceed the limitations in Section 401(a)(17) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the applicable annual compensation limit.

(b) The compensation limitations specified in Section 7522.10 shall also apply to a member who is subject to the provisions of the California Public Employees' Pension Reform

Act of 2013 for all or any portion of his or her membership in the county retirement system.

(Added by Stats. 1995, Ch. 829 (SB 791), Sec. 12)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 29)

(Amended by Stats. 2014, Ch. 740 (AB 2473), Sec. 10)

§31671.05. Mandatory retirement age less than 70; effect

A member who, on December 31, 1978, was a member of a retirement system under this chapter which imposed a mandatory retirement age less than age 70 applicable to that member may, notwithstanding the repeal of Section 31671 by the same act amending this section during the 1983 portion of the 1983-84 Regular Session of the Legislature and the repeal of Sections 31671.01 and 31671.02 by Chapter 385 of the Statutes of 1978, retire from that system upon reaching the mandatory retirement age in effect for that system on December 31, 1978.

This section shall not become operative in any county until the board of supervisors adopts a resolution making it operative in the county.

(Amended by Stats. 1983, Ch. 666, Sec. 20)

§31672. Voluntary retirement; application; conditions

(a) A member who has reached 70 years of age or a member who has completed 10 years of service and who has reached 55 years of age, or a member who has completed 30 years of service regardless of age, may be retired upon filing with the board a written application, setting forth the date upon which the member desires the member's retirement to become effective. Fifty-five years of age in the preceding sentence may be reduced to 50 years of age in a county by resolution of the board of supervisors. The effective retirement date shall not be either of the following:

(1) Earlier than the date the application is filed with the board.

(2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

(b) This section shall not apply to any member who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) for all or any portion of that member's membership in the county retirement system.

(Amended by Stats. 1972, Ch. 1126, Sec. 3)

(Amended by Stats. 2006, Ch. 846 (AB 2863), Sec. 3, Effective September 30, 2006)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 30)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 44)

§31672.1. Voluntary retirement; application; age 55, 10 years of service, 5 full years of credit

(a) An employee who has reached 55 years of age has held a position in the county service for 10 years, and on the date of retirement is employed in a temporary, seasonal, intermittent, or part-time position in which the employee has received credit for five full years of service, may be retired upon filing with the board a written application, setting forth the date upon which the employee desires the employee's retirement to become effective. Fifty-five years of age in the preceding sentence may be reduced to 50 years of age in any county by resolution of the board of supervisors if such reduction has also been made under Section 31672. The effective retirement date shall not be either of the following:

(1) Earlier than the date the application is filed with the board.

(2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

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

membership in the county retirement system.

(Added by Stats. 1976, Ch. 548, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 31)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 45)

§31672.2. Elective officers; voluntary retirement; application; conditions; operative effect and application of section (Santa Barbara)

(a) An elective officer who filed a declaration with the board to become a member, pursuant to Section 31553, who has served two complete consecutive terms in an elective office, and who has reached the minimum age for retirement provided in Section 31672, may be retired upon filing with the board a written application setting forth the date upon which the member desires the member's retirement to become effective. The effective retirement date shall not be either of the following:

(1) Earlier than the date the application is filed with the board.

(2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

(b) This section shall become operative only in any county of the 16th class, as defined by Section 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, and on the first day of the calendar month after the board of supervisors adopts a resolution making it operative in the county.

(c) This section shall not apply to an elective officer who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013 for all or any portion of the elective officer's membership in the county retirement system.

(Added by Stats. 1988, Ch. 1235, Sec. 5, Operative on date prescribed by its own provisions)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 32)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 46)

§31672.3. Member of county retirement system; retirement criteria

A member of a county retirement system who is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) for all or a portion of the member's membership in the county retirement system who has completed five years of service and has reached the minimum retirement age applicable to that member under the act, or has reached 70 years of age, may be retired upon filing with the board a written application, setting forth the date upon which the member desires the member's retirement to become effective. The effective retirement date shall not be either of the following:

(1) Earlier than the date the application is filed with the board.

(2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

(Added by Stats. 2013, Ch. 247 (AB 1380), Sec. 33)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 46)

§31672.5. Member of retirement system of other public agency becoming member of county retirement association; eligibility for retirement

Notwithstanding any other provision of this chapter, when any member of a retirement system of any other public agency becomes a member of a county retirement association, established pursuant to this chapter, as a result of the transfer to and assumption by the county of any function of the other public agency, and the member retains rights in the retirement

system of the other public agency in respect to service theretofore rendered to that agency, such member shall be eligible for retirement under the county retirement system at any time at which he would have been eligible for such retirement if the service rendered to the other public agency had been rendered instead to the county. A certificate of any officer of the other public agency authorized to determine service rendered to that agency that certain service was rendered to such agency shall be accepted by the retirement board of the county retirement association as prima facie evidence of service so rendered.

This section shall be applied only to enable such members of county retirement systems to qualify for retirement. Nothing in this section entitles any member of a county retirement system to any pension or other benefit based upon service rendered to any other public agency, but such a member upon his retirement shall be entitled to a retirement allowance under the county retirement system, calculated according to the formula applicable under such system, and on the basis of his county service even though such service be less than the minimum county service required for retirement under such system.

The provisions in this chapter for minimum retirement allowances, shall not apply to any retired person who would not have qualified for retirement without including under this section service rendered to such public agency, nor shall such provisions apply unless the sum of the retirement allowances to which such person is entitled under the county retirement system and the retirement system of the other public agency, is less than the otherwise applicable minimum allowance under such provisions.

This section shall become operative in any county on the first day of the calendar month after the board of supervisors adopts by four-fifths vote a resolution making it operative in the county.

(Added by Stats. 1957, Ch. 3, Sec. 1)

§31673. Retirement allowances

Upon retirement for service a member is entitled to receive a retirement allowance which shall consist of:

(a) His service retirement annuity.

(b) His current service pension.

(c) His prior service pension.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31674. Service retirement annuity

The service retirement annuity is an annuity which is the actuarial equivalent of his accumulated contributions at the time of his retirement.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31675. Current service pension

The current service pension is a pension, purchased by the contributions of the county or district, equal to that portion of the annuity purchased by the accumulated normal contributions of the member.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31676. Prior service pension

The prior service pension is an additional pension for members purchased by the contributions of the county or district, equal to one-sixtieth of the average annual compensation earnable by him during the last three years prior to the establishment of the system and the last three years of service, multiplied by the number of years of prior service credited to him.

(Amended by Stats. 1947, Ch. 348, Sec. 6)

§31676.01. Operation of section; coverage under federal system; current and prior service pensions as additional pension

This section shall be operative in a county at such time or times as may be mutually agreed to in memoranda of understanding executed by the employer and employee representatives if the board of supervisors adopts, by majority vote, a resolution declaring that the section shall be operative in the county.

Notwithstanding any other provisions of this chapter, the current service pension, or the current service pension combined with the prior service pension, is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-ninetieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	0.7091
50 1/4	0.7183
50 1/2	0.7274
50 3/4	0.7366
51	0.7457
51 1/4	0.7547
51 1/2	0.7637
51 3/4	0.7726
52	0.7816
52 1/4	0.7907
52 1/2	0.7999
52 3/4	0.8090
53	0.8181
53 1/4	0.8275
53 1/2	0.8369
53 3/4	0.8462
54	0.8556
54 1/4	0.8656
54 1/2	0.8755
54 3/4	0.8855
55	0.8954
55 1/4	0.9061
55 1/2	0.9168
55 3/4	0.9275
56	0.9382
56 1/4	0.9498
56 1/2	0.9614

Age at retirement	Fraction
56 3/4	0.9730
57	0.9846
57 1/4	0.9972
57 1/2	1.0098
57 3/4	1.0224
58	1.0350
58 1/4	1.0487
58 1/2	1.0625
58 3/4	1.0762
59	1.0899
59 1/4	1.1049
59 1/2	1.1199
59 3/4	1.1349
60	1.1500
60 1/4	1.1611
60 1/2	1.1723
60 3/4	1.1835
61	1.1947
61 1/4	1.2097
61 1/2	1.2247
61 3/4	1.2398
62	1.2548
62 1/4	1.2707
62 1/2	1.2867
62 3/4	1.3026
63	1.3186
63 1/4	1.3355
63 1/2	1.3525
63 3/4	1.3695
64	1.3865
64 1/4	1.4047
64 1/2	1.4229
64 3/4	1.4411
65 and over	1.4593

The fractions herein set forth shall be used until adjusted by each board for its retirement system in accordance with the interest and mortality tables adopted by each such board with respect to its retirement system.

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

(Added by Stats. 1993, Ch. 61 (AB 2031), Sec. 3, Amended by Stats. 1993 (AB 2379), Sec. 1)

§31676.1. Application of section to counties; computation of total retirement allowance

This section may be made applicable in any county on the first day of the month after the board of supervisors of such county adopts, by majority vote, a resolution providing that this section shall become applicable in such county.

Notwithstanding any other provisions of this chapter the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-sixtieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	0.7091
50 1/4	0.7183
50 1/2	0.7274
50 3/4	0.7366
51	0.7457
51 1/4	0.7547
51 1/2	0.7637
51 3/4	0.7726
52	0.7816
52 1/4	0.7907
52 1/2	0.7999
52 3/4	0.8090
53	0.8181
53 1/4	0.8275
53 1/2	0.8369
53 3/4	0.8462
54	0.8556
54 1/4	0.8656
54 1/2	0.8755
54 3/4	0.8855
55	0.8954
55 1/4	0.9061
55 1/2	0.9168
55 3/4	0.9275
56	0.9382
56 1/4	0.9498
56 1/2	0.9614
56 3/4	0.9730

Age at retirement	Fraction
57	0.9846
57 1/4	0.9972
57 1/2	1.0098
57 3/4	1.0224
58	1.0350
58 1/4	1.0487
58 1/2	1.0625
58 3/4	1.0762
59	1.0899
59 1/4	1.1049
59 1/2	1.1199
59 3/4	1.1349
60	1.1500
60 1/4	1.1611
60 1/2	1.1723
60 3/4	1.1835
61	1.1947
61 1/4	1.2097
61 1/2	1.2247
61 3/4	1.2398
62	1.2548
62 1/4	1.2707
62 1/2	1.2867
62 3/4	1.3026
63	1.3186
63 1/4	1.3355
63 1/2	1.3525
63 3/4	1.3695
64	1.3865
64 1/4	1.4047
64 1/2	1.4229
64 3/4	1.4411
65 and over	1.4593

The fractions herein set forth shall be used until adjusted by each board for its retirement system in accordance with the interest and mortality tables adopted by each such board with respect to its retirement system.

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

(Amended by Stats. 1976, Ch. 1436, Sec. 20)

§31676.3. Application to certain counties; prior service credit; election of member

This section shall apply only to counties coming under the provisions of Section 31676.1 prior to January 1, 1953. A member shall receive no credit for prior service subsequent to June 30, 1921, in calculating a retirement allowance pursuant to Section 31676.1 unless, within 90 days after the effective date of this section, he files with the board his written election to pay into the retirement fund six dollars ($6) for each month of prior service subsequent to June 30, 1921, for which he claims credit, and unless he makes such payments as provided in this article.

(Amended by Stats. 1953, Ch. 992, Sec. 4)

§31676.6. Additional salary deductions; election of member

This section shall apply only to counties coming under the provisions of Section 31676.1 prior to January 1, 1953. If a member files an election pursuant to Section 31676.3 and does not file an election pursuant to Section 31676.4, and either he has no accumulated additional contributions to his credit or the accumulated contributions to his credit are less than payments due for credit for prior service subsequent to June 30, 1921, the amount due or balance thereof shall be paid by additional salary deductions in the amounts specified by the member but in no case less than six dollars ($6) per month. The total amount due shall be paid prior to the effective date of his retirement.

(Amended by Stats. 1953, Ch. 992, Sec. 9)

§31676.9. Prior service pension in calculating benefits; election of member

In every county in which a retirement system was established prior to January 1, 1952, the prior service pension is an additional pension for members purchased by the county or district, equal to one-sixtieth of the average annual compensation earnable by him during any three years of service elected by the member at or before the time he files an application for retirement, or, if he fails to elect, during the three years immediately preceding his retirement, multiplied by the number of years of prior service credited to him.

(Amended by Stats. 1953, Ch. 929, Sec. 5)

§31676.11. Adoption of section by resolution; computation of benefits

This section may be made applicable in any county on the first day of the month after the board of supervisors of such county adopts, by majority vote, a resolution providing that this section shall become applicable in such county.

Notwithstanding any other provisions of this chapter the current service pension or the current service pension combined with prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-sixtieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	0.7454
50 1/4	0.7561
50 1/2	0.7668
50 3/4	0.7775
51	0.7882

Age at retirement	Fraction
51 1/4	0.7998
51 1/2	0.8114
51 3/4	0.8230
52	0.8346
52 1/4	0.8472
52 1/2	0.8598
52 3/4	0.8724
53	0.8850
53 1/4	0.8987
53 1/2	0.9125
53 3/4	0.9262
54	0.9399
54 1/4	0.9549
54 1/2	0.9699
54 3/4	0.9849
55	1.0000
55 1/4	1.0111
55 1/2	1.0223
55 3/4	1.0335
56	1.0447
56 1/4	1.0597
56 1/2	1.0747
56 3/4	1.0898
57	1.1048
57 1/4	1.1207
57 1/2	1.1367
57 3/4	1.1526
58	1.1686
58 1/4	1.1855
58 1/2	1.2025
58 3/4	1.2195
59	1.2365
59 1/4	1.2547
59 1/2	1.2729
59 3/4	1.2911
60	1.3093
60 1/4	1.3221
60 1/2	1.3350
60 3/4	1.3479

Age at retirement	Fraction
61	1.3608
61 1/4	1.3736
61 1/2	1.3865
61 3/4	1.3994
62	1.4123
62 1/4	1.4251
62 1/2	1.4380
62 3/4	1.4509
63	1.4638
63 1/4	1.4766
63 1/2	1.4895
63 3/4	1.5024
64	1.5153
64 1/4	1.5281
64 1/2	1.5410
64 3/4	1.5539
65	1.5668

In any county operating under this section any limitations in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Wherever in this chapter reference is made to survivorship benefits and rights under Section 31676.1, the same shall apply to this section.

(Amended by Stats. 1976, Ch. 1436, Sec. 21)

§31676.12. Adoption of section by resolution; additional benefits; limitation; computation

This section may be made applicable in any county on the first day of the month after the board of supervisors of such county adopts, by majority vote, a resolution providing that this section shall become applicable in such county.

Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	0.6681
50 1/4	0.6775
50 1/2	0.6869
50 3/4	0.6962
51	0.7056

Age at retirement	Fraction
51 1/4	0.7156
51 1/2	0.7255
51 3/4	0.7355
52	0.7454
52 1/4	0.7561
52 1/2	0.7668
52 3/4	0.7775
53	0.7882
53 1/4	0.7998
53 1/2	0.8114
53 3/4	0.8230
54	0.8346
54 1/4	0.8472
54 1/2	0.8598
54 3/4	0.8724
55	0.8850
55 1/4	0.8987
55 1/2	0.9125
55 3/4	0.9262
56	0.9399
56 1/4	0.9549
56 1/2	0.9699
56 3/4	0.9849
57	1.0000
57 1/4	1.0111
57 1/2	1.0223
57 3/4	1.0335
58	1.0447
58 1/4	1.0597
58 1/2	1.0747
58 3/4	1.0898
59	1.1048
59 1/4	1.1207
59 1/2	1.1367
59 3/4	1.1526
60	1.1686
60 1/4	1.1855
60 1/2	1.2025
60 3/4	1.2195
61	1.2365

Age at retirement	Fraction
61 1/4	1.2547
61 1/2	1.2729
61 3/4	1.2911
62 and over	1.3093

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Whenever in this chapter reference is made to survivorship and other benefits and rights under Section 31676.1, the same shall apply to this section.

(Amended by Stats. 1976, Ch. 1436, Sec. 22)

§31676.13. Increase in service retirement allowances; computation; limitation; adoption by resolution

Notwithstanding any other provisions of this chapter the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-sixtieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	0.8181
50 1/4	0.8275
50 1/2	0.8369
50 3/4	0.8462
51	0.8556
51 1/4	0.8656
51 1/2	0.8755
51 3/4	0.8855
52	0.8954
52 1/4	0.9061
52 1/2	0.9168
52 3/4	0.9275
53	0.9382
53 1/4	0.9498
53 1/2	0.9614
53 3/4	0.9730
54	0.9846
54 1/4	0.9972
54 1/2	1.0098
54 3/4	1.0224

Age at retirement	Fraction
55	1.0350
55 1/4	1.0487
55 1/2	1.0625
55 3/4	1.0762
56	1.0899
56 1/4	1.1049
56 1/2	1.1199
56 3/4	1.1349
57	1.1500
57 1/4	1.1611
57 1/2	1.1723
57 3/4	1.1835
58	1.1947
58 1/4	1.2097
58 1/2	1.2247
58 3/4	1.2398
59	1.2548
59 1/4	1.2707
59 1/2	1.2867
59 3/4	1.3026
60	1.3186
60 1/4	1.3355
60 1/2	1.3525
60 3/4	1.3695
61	1.3865
61 1/4	1.4047
61 1/2	1.4229
61 3/4	1.4411
62 and over	1.4593

The fractions herein set forth shall be used until adjusted by each board for its retirement system in accordance with the interest and mortality tables adopted by each such board with respect to its retirement system.

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

This section shall not be operative in any county until adopted by a resolution of the board of supervisors.

Whenever in this chapter reference is made to the survivorship and other benefits and rights under Section 31676.1, the same shall apply to this section.

(Amended by Stats. 1976, Ch. 1436, Sec. 23)

§31676.14. Increase in service retirement allowances; limitation; survivorship benefits and rights; adoption by resolution

Notwithstanding any other provisions of this chapter the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-sixtieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	0.8850
50 1/4	0.8987
50 1/2	0.9125
50 3/4	0.9262
51	0.9399
51 1/4	0.9549
51 1/2	0.9699
51 3/4	0.9849
52	1.0000
52 1/4	1.0111
52 1/2	1.0223
52 3/4	1.0335
53	1.0447
53 1/4	1.0597
53 1/2	1.0747
53 3/4	1.0898
54	1.1048
54 1/4	1.1207
54 1/2	1.1367
54 3/4	1.1526
55	1.1686
55 1/4	1.1855
55 1/2	1.2025
55 3/4	1.2195
56	1.2365
56 1/4	1.2547
56 1/2	1.2729
56 3/4	1.2911
57	1.3093
57 1/4	1.3221
57 1/2	1.3350

Age at retirement	Fraction
57 3/4	1.3479
58	1.3608
58 1/4	1.3736
58 1/2	1.3865
58 3/4	1.3994
59	1.4123
59 1/4	1.4251
59 1/2	1.4380
59 3/4	1.4509
60	1.4638
60 1/4	1.4766
60 1/2	1.4895
60 3/4	1.5024
61	1.5153
61 1/4	1.5281
61 1/2	1.5410
61 3/4	1.5539
62 and over	1.5668

In any county operating under this section any limitations in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Wherever in this chapter reference is made to survivorship benefits and rights under Section 31676.1, the same shall apply to this section.

This section shall not be operative in any county until adopted by a resolution of the board of supervisors.

(Amended by Stats. 1976, Ch. 1436, Sec. 24)

§31676.15. Additional pension; Determining amount of allowances; Applicabilty to certain members

(a) Except as provided in subdivision (d), this section may be made applicable in any county which has implemented the provisions of Article 15.6 (commencing with Section 31855). This section shall be applicable if a majority of all the members of the board of supervisors vote to adopt a resolution so to do and a majority of the members of the affected class or classes voting at an election held during 1974, with more than 50 percent of the members participating, favor the termination of retirement benefits under social security. The resolution may specify a date subsequent to the date of adoption of the resolution as the operative date for this section.

(b) (1) Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	0.7454
50 1/4	0.7561
50 1/2	0.7668
50 3/4	0.7775
51	0.7882
51 1/4	0.7998
51 1/2	0.8114
51 3/4	0.8230
52	0.8346
52 1/4	0.8472
52 1/2	0.8598
52 3/4	0.8724
53	0.8850
53 1/4	0.8987
53 1/2	0.9125
53 3/4	0.9262
54	0.9399
54 1/4	0.9549
54 1/2	0.9699
54 3/4	0.9849
55	1.0000
55 1/4	1.0111
55 1/2	1.0223
55 3/4	1.0335
56	1.0447
56 1/4	1.0597
56 1/2	1.0747
56 3/4	1.0898
57	1.1048
57 1/4	1.1207
57 1/2	1.1367
57 3/4	1.1526
58	1.1686
58 1/4	1.1855
58 1/2	1.2025
58 3/4	1.2195
59	1.2365
59 1/4	1.2547
59 1/2	1.2729
59 3/4	1.2911

Age at retirement	Fraction
60	1.3093
60 1/4	1.3221
60 1/2	1.3350
60 3/4	1.3479
61	1.3608
61 1/4	1.3736
61 1/2	1.3865
61 3/4	1.3994
62	1.4123
62 1/4	1.4251
62 1/2	1.4380
62 3/4	1.4509
63	1.4638
63 1/4	1.4766
63 1/2	1.4895
63 3/4	1.5024
64	1.5153
64 1/4	1.5281
64 1/2	1.5410
64 3/4	1.5539
65	1.5668

(2) In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

(c) Whenever in this chapter reference is made to survivorship and other benefits and rights under Section 31676.1, the same shall apply to this section.

(d) Notwithstanding the requirements of subdivision (a), the provisions of this section shall be applicable in a county of the 12th Class, as described in Sections 28020 and 28033, after the board of supervisors of the county adopts a resolution to do so. The provisions adopted pursuant to this subdivision may be made applicable without regard to the requirement of implementing Article 15.6 (commencing with Section 31855) or the requirement of terminating benefits under social security. The provisions adopted pursuant to this subdivision shall apply only to either of the following:

(1) Members first hired by the county on and after the date this section becomes operative in the county.

(2) Members represented by Service Employees International Union Local 521 whose retirement benefits were established pursuant to Section 31676.16 prior to the date this section becomes operative in the county.

(Amended by Stats. 1976, Ch. 1436, Sec. 25)

(Amended by Stats. 2007, Ch. 86 (AB 1255), Sec. 2. – Urgency Statute, Effective July 17, 2007)

§31676.16. Additional pension; application; calculation

This section may be made applicable in any county on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution providing that this section shall become applicable in the county.

Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	0.713
50 1/4	0.725
50 1/2	0.737
50 3/4	0.749
51	0.761
51 1/4	0.775
51 1/2	0.788
51 3/4	0.801
52	0.814
52 1/4	0.828
52 1/2	0.843
52 3/4	0.857
53	0.871
53 1/4	0.886
53 1/2	0.902
53 3/4	0.917
54	0.933
54 1/4	0.950
54 1/2	0.966
54 3/4	0.983
55	1.000
55 1/4	1.007
55 1/2	1.013
55 3/4	1.020
56	1.026
56 1/4	1.033
56 1/2	1.039
56 3/4	1.046
57	1.052

Age at retirement	Fraction
57 1/4	1.059
57 1/2	1.065
57 3/4	1.072
58	1.078
58 1/4	1.085
58 1/2	1.091
58 3/4	1.098
59	1.105
59 1/4	1.111
59 1/2	1.118
59 3/4	1.124
60	1.131
60 1/4	1.137
60 1/2	1.144
60 3/4	1.150
61	1.157
61 1/4	1.163
61 1/2	1.170
61 3/4	1.176
62	1.183
62 1/4	1.189
62 1/2	1.196
62 3/4	1.202
63 and over	1.209

The fractions herein set forth shall be used until adjusted by each board for its retirement system in accordance with the interest and mortality tables adopted by each board with respect to its retirement system.

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Wherever in this chapter reference is made to survivorship benefits and rights under Section 31676.1, the same shall apply to this section.

(Added by Stats. 2000, Ch. 882 (AB 448), Sec. 3)

§31676.17. Additional pension; application; calculation

This section may be made applicable in any county on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution providing that this section shall become applicable in the county.

Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding

completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55	1.2500
55 1/4	1.2625
55 1/2	1.2750
55 3/4	1.2875
56	1.3000
56 1/4	1.3125
56 1/2	1.3250
56 3/4	1.3375
57	1.3500
57 1/4	1.3625
57 1/2	1.3750
57 3/4	1.3875
58	1.4000
58 1/4	1.4125
58 1/2	1.4250
58 3/4	1.4375
59	1.4500

Age at retirement	Fraction
59 1/4	1.4625
59 1/2	1.4750
59 3/4	1.4875
60 and over	1.5000

In any county operating under this section, any limitations in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Wherever in this chapter reference is made to survivorship benefits and rights under Section 31676.1, the same shall apply to this section.

This section shall apply to members employed by the county on or after the date this section becomes operative in the county.

(Added by Stats. 2001, Ch. 782 (AB 616), Sec. 7)

(Amended by Stats. 2002, Ch. 1152 (AB 3034), Sec. 116)

§31676.18. Additional pension; application; calculation

This section may be made applicable in any county on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution providing that this section shall become applicable in the county.

Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750

Age at retirement	Fraction
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

In any county operating under this section, any limitations in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Wherever in this chapter reference is made to survivorship benefits and rights under Section 31676.1, the same shall apply to this section.

This section shall apply to members employed by the county on or after the date this section becomes operative in the county.

(Added by Stats. 2001, Ch. 782 (AB 616), Sec. 8)

§31676.19. Additional pension; application; calculation

This section may be made applicable in any county on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution providing that this section shall become applicable in the county.

Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at retirement	Fraction
50	1.0000
50 1/4	1.0175
50 1/2	1.0350
50 3/4	1.0525
51	1.0700
51 1/4	1.0875
51 1/2	1.1050
51 3/4	1.1225
52	1.1400
52 1/4	1.1575
52 1/2	1.1750
52 3/4	1.1925
53	1.2100
53 1/4	1.2275
53 1/2	1.2450

Age at retirement	Fraction
53 3/4	1.2625
54	1.2800
54 1/4	1.2975
54 1/2	1.3150
54 3/4	1.3325
55 and over	1.3500

In any county operating under this section any limitations in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Wherever in this chapter reference is made to survivorship benefits and rights under Section 31676.1, the same shall apply to this section.

This section shall apply to members employed by the county on or after the date this section becomes operative in the county.

(Added by Stats. 2001, Ch. 782 (AB 616), Sec. 9)

§31676.56. Members with 30 years' service

In any county coming under the provisions of Section 31676.1 subsequent to January 1, 1953, any member having in excess of 30 years of service may within 90 days from the effective date of this amendment elect in writing not to come under the provisions of Section 31676.1.

(Added by Stats. 1953, Ch. 992, Sec. 8)

§31676.95. Pension increases and decreases; pension calculation; application of section

In every county coming under the provisions of Section 31676.1 subsequent to January 1, 1953, every current service pension and prior service pension payable for time commencing on the effective date of this section to any member who was retired prior to said effective date by reason of having attained the age of compulsory retirement, is hereby increased to the amount it would be if the provisions of this chapter, including Sections 31676.1 and 31760.1, as they existed on the date that Section 31676.1 became applicable to the members' retirement system, had been in effect on the date of the actual retirement of the member; but this section does not authorize any decrease in any such pension, nor does this section give any such retired member, or his successors in interest, any claim against the county or district for any increase in any pension paid or payable for time prior to its effective date. Calculations of pensions under this section shall be made on the basis of current interest rate and mortality tables.

This section shall not apply to any retirement system established under the provisions of this chapter, nor to the members or retired members of any such system unless and until the governing board of the county or district covered by such retirement system elects to be subject to the provisions of this section in the manner provided by Article 2 of this chapter with respect to the establishment of a retirement system hereunder; except that an election among the employees is not required.

(Added by Stats. 1955, Ch. 1900, Sec. 1)

§31676.96. Previously retired members; increase in pensions

In every county coming under the provisions of Section 31676.1, every current service pension and prior service pension payable for the time commencing on the first day of the month after the effective date of this section to any member who was retired prior to such effective date is hereby increased to the amount it would be if the provisions of this chapter, including Section 31676.1, as they exist on the effective date of this section had been in effect on the date of the actual retirement of the member, but this section does not authorize any

decrease in any such pension, nor does this section give any such retired member, or his successors in interest, any claim against the county or district for any increase in any pension paid or payable for time prior to its effective date. Calculations of pensions under this section shall be made on the basis of current interest rate and mortality tables.

This section shall not apply to any retirement system established under the provisions of this chapter, nor to the members or retired members of any such system unless and until the governing board of the county or district covered by such retirement system elects to be subject to the provisions of this section in the manner provided by Article 2 (commencing with Section 31500) of this chapter with respect to the establishment of a retirement system hereunder, except that an election among the employees is not required.

(Added by Stats. 1967, Ch. 959, Sec. 1)

§31676.97. Pension increases; calculation

In every county coming under the provisions of Section 31676.1 subsequent to January 1, 1964, and prior to October 1, 1964, every current service pension and prior service pension payable for time commencing October 1, 1965, is hereby increased to the amount it would be if the provisions of this chapter, including Sections 31676.1 and 31760.1, as they existed on the date that Section 31676.1 became applicable to the members' retirement system, had been in effect on the date of the actual retirement of the member; but this section does not authorize any decrease in any such pension, nor does this section give any such retired member, or his successors in interest, any claim against the county or district for any increase in any pension paid or payable for time prior to October 1, 1965. Calculations of pensions under this section shall be made on the basis of current interest rate and mortality tables.

(Added by Stats. 1965, Ch. 557, Sec. 1)

§31676.98. Retirees under former system, inclusion in new system; adjustment of contribution rates

Any county under the provisions of Section 31676.1, on the effective date of this section, whose retired employees were not included in the benefits of Section 31676.1 on the date the county or district adopted the provisions of Section 31676.1, may now include under Section 31676.1 all retirees who retired during the period of time from the establishment of such retirement system and the date such county or district passed a resolution bringing the county or district under the provisions of Section 31676.1, subject to the following conditions:

(a) The benefits of this section shall not apply to any beneficiary or successor in interest of any deceased member and shall apply only to the living retired members on the date such section is adopted by resolution of the county or district.

(b) No increases, cost of living adjustments or grants to such retired members shall be considered in the calculations of the retirement allowance, and only such pensions received by the retired members, computed at the date of the original retirement of the members shall be used in the computation of any such benefits. All living retired members shall have their benefits computed as general members. Calculations shall be made on the basis of current interest rates and mortality tables.

(c) This section shall not decrease any such pension or retirement allowance, nor shall this section give any such retired members or their beneficiary or successor in interest, any claim against the county or district for any increases in pension or retirement allowance paid or payable for the time prior to the effective date of this section.

(d) This section shall not apply to any retirement system established under the provisions of this chapter, nor to the members or retired members of such system unless and until the governing board of the county or district adopts, by majority vote, a resolution providing that this section shall become applicable in such county or district. Upon adoption

the effective date shall be the first of the month following such date of adoption.

A county or district upon the adoption of the benefits prescribed by this section shall determine and shall prescribe increases in employer or member rates of contribution or make such other adjustments as it deems appropriate to fully fund such benefits on a sound actuarial basis.

(Added by Stats. 1977, Ch. 583, Sec. 1, Effective September 5, 1977)

§31677. Reduction of benefits on retirement before age 60

If a member retires for service before attaining age 60, the prior service pension shall be reduced to that amount which the value of the pensions as deferred to age 60 will purchase at the actual age of retirement.

(Amended by Stats. 1947, Ch. 348, Sec. 7)

§31678. Retirement association members; calculation of retirement allowances under Sections 31676.12 to 31676.15

Notwithstanding any other provision of this chapter, any member of a retirement association established in any county pursuant to this chapter, who upon retirement receives a retirement allowance calculated in accordance with Sections 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, and 31676.15, shall have his or her retirement allowance calculated under such section only for the period of time that the section was effective in the county.

The Legislature recognizes that counties subject to this chapter may adopt two or more of the enumerated retirement allowance calculation sections when changing from a section providing a lesser allowance to a section providing a larger allowance and thereby creates a windfall for a person who retires immediately after the adoption of a section providing the larger allowance because the retirement allowance is calculated as if the section had been in effect during the entire career of the member. The purpose of this section is to prevent this practice. This section shall apply only to persons who become members of the retirement system after January 1, 1981.

(Added by Stats. 1980, Ch. 720, Sec. 4)

§31678.1. Counties of the 14th class: application of Section 31678; conditions (Kern)

(a) In a county of the 14th class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28035, as amended by Chapter 1204 of the Statutes of 1971, Section 31678 shall only be applicable to persons who first became members of the retirement system on and after January 1, 1994.

(b) This section shall not be operative in that county until the board of supervisors, by resolution, adopted by a majority vote, makes this section applicable in that county.

(c) Notwithstanding any other provision of law, this section shall only apply to members who retire on or after January 1, 1994.

(Added by Stats. 1997, Ch. 64 (AB 1365), Sec. 1)

(Amended by Stats. 1999, Ch. 42 (AB 455), Sec. 1)

§31678.2. Application of retirement benefits; service credits; date specified in resolution

(a) Notwithstanding Section 31678 or any other provision of this chapter, a board of supervisors or a governing body of a district may, by resolution adopted by majority vote, make any section of this chapter prescribing a formula for calculation of retirement benefits applicable to service credit earned on and after the date specified in the resolution, which date may be earlier than the date the resolution is adopted.

(b) A resolution adopted pursuant to this section may, if approved in a memorandum

of understanding executed by the board of supervisors and the employee representatives, require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified in subdivision (a), as adopted by the board or governing body, had been in effect during the period of time designated in the resolution. The payment by a member shall become part of the accumulated contributions of the member.

(c) This section shall only be applicable to members who retire on or after the effective date of the resolution described in subdivision (a).

(d) On or after January 1, 2013, this section is inoperative pursuant to Section 7522.44.

(Added by Stats. 2000, Ch. 495 (SB 1696), Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 34)

§31678.3. Orange County; formula for calculation of retirement benefits; authority to adopt formula; application to employees of a county and to employees of any district within a county

(a) Notwithstanding any other provision of this chapter, a resolution adopted by a board of supervisors to make any formula for calculation of retirement benefits described in this section applicable to the employees of the county does not apply to make that formula applicable to the employees of any district within the county. The governing body of a district may elect, by resolution adopted by majority vote, to make any formula for calculation of retirement benefits described in this section applicable to the employees of the district irrespective of whether the board of supervisors has made that election with respect to employees of the county.

(b) Notwithstanding any other provision of this chapter, the board of supervisors or the governing body of a district may, by resolution adopted by majority vote, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 2), do any or all of the following:

(1) Apply Section 31621.8, 31676.17, 31676.18, or 31676.19 for the calculation of retirement benefits for general members to the employees in a bargaining unit comprised of general members.

(2) Apply Section 31664.1 for the calculation of retirement benefits for safety members to the employees in a bargaining unit comprised of safety members.

(3) Apply Section 31664 for the calculation of retirement benefits for safety members to the employees of the Probation Services Unit and the Probation Supervisory Management Unit.

(c) Any nonrepresented employees within similar job classifications as employees in a bargaining unit described in subdivision (b) or supervisors and managers thereof shall be subject to the same formula for the calculation of retirement benefits applicable to the employees in that bargaining unit.

(d) A resolution adopted pursuant to subdivision (b) may require members to pay a portion of the contributions attributable to past service liability, that would have been required if the benefits specified in the resolution, as adopted by the board of supervisors or the governing body of the district, had been in effect during the period of time designated in the resolution. Any payments required of represented employees shall first be approved in a memorandum of understanding made under the Meyers-Milias-Brown Act and executed by the board of supervisors or the governing body of the district and the employee representatives. The contributions paid by a member pursuant to this subdivision shall become part of the accumulated contributions of the member.

(e) This section shall only be applicable to members who retire on or after the effective

date of the resolution described in subdivision (b).

(f) The board of supervisors or the governing body of a district may not unilaterally implement a retirement formula for any of its bargaining units.

(g) This section shall apply only in Orange County.

(h) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

(Added by Stats. 2002, Ch. 74 (AB 1992), Sec. 6, Effective June 27, 2002, as an urgency statute)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 35)

§31678.4. Applicability of formula for the calculation of retirement benefits

The governing body of a district as defined in subdivision (l) of Section 31468 shall not elect to make a formula for the calculation of retirement benefits applicable to the personnel of the district appointed pursuant to Section 31522.5 who are employees of the retirement system unless the board of supervisors has made that formula applicable to personnel of that retirement system who are employees of the county.

(Added by Stats. 2006, Ch. 369 (SB 777), Sec. 6)

§31678.31. Orange County; authority to require written election of pension calculations

(a) Notwithstanding any other provision of this chapter, the board of supervisors or the governing body of a district within the county may, by resolution adopted by majority vote, do the following:

(1) Require an employee hired after approval of the resolution, to elect in writing, either the pension calculation stated in Section 31676.19 or the pension calculation stated in Section 31676.01. The election shall be made within 45 calendar days of beginning employment with the county or the district. If an employee does not elect the pension calculation stated in Section 31676.19 within 45 days of beginning employment, the employee shall be deemed to have elected the pension calculation stated in Section 31676.01. An employee shall not be permitted to rescind his or her election unless the board of supervisors or the governing body of a district, through the adoption of a subsequent ordinance or resolution by majority vote, makes a provision permitting the employee to rescind the election applicable to the county or district.

(2) Require a current employee of the county or district covered by the pension calculation stated in Section 31676.19, hired before approval of the resolution, within 180 calendar days of approval of the resolution to make, at the employee's option, a one-time written election to terminate the application of the pension calculation stated in Section 31676.19 for future service and elect instead the pension calculation stated in Section 31676.01 for future service. This election shall be signed by the employee. Prior to signing an election, a current employee who chooses to terminate the pension calculation stated in Section 31676.19 and elects instead the pension calculation stated in Section 31676.01, shall be provided by the county or district governing body with a written explanation of the effect and impact of the termination. A current employee who chooses to terminate the pension calculation stated in Section 31676.19 shall be required to sign an affidavit stating that the employee has been fully informed regarding the effect of the termination and understands that the termination is irrevocable. The affidavit shall also state that the employee has chosen termination of his or her own free will and was not coerced into termination by the employer or any other person. An employee shall not be permitted to rescind his or her election unless the board of supervisors or the governing body of a district, through the adoption of a subsequent ordinance or resolution

by majority vote, makes a provision permitting the employee to rescind the election applicable to the county or district.

(3) Require a current employee of the county or district, hired before approval of the resolution, but not covered by the pension calculation stated in Section 31676.19, who after approval of the resolution becomes eligible for the pension calculation stated in Section 31676.19, to make a one-time written election between the pension calculation stated in Section 31676.19 for future service and the pension calculation stated in Section 31676.01 for future service. The election shall be made within 45 calendar days of becoming eligible for the pension calculation stated in Section 31676.19. The election shall be signed by the employee. Prior to signing the election, an employee who does not elect the pension calculation stated in Section 31676.19 and elects instead the pension calculation stated in Section 31676.01 shall be provided by the county or the district governing body with a written explanation of the effect and impact of the election. An employee who does not choose the pension calculation stated in Section 31676.19 shall be required to sign an affidavit stating that the employee has been fully informed regarding the effect of the election and understands that the election is irrevocable. The affidavit shall also state that the employee has chosen the election of his or her own free will and was not coerced into the election by the employer or any other person. An employee shall not be permitted to rescind his or her election unless the board of supervisors or the governing body of a district, through the adoption of a subsequent ordinance or resolution by majority vote, makes a provision permitting the employee to rescind the election applicable to the county or district. Failure to make an election within 45 calendar days shall be considered cause for termination of employment until the employee described in this paragraph has made the required election.

(b) The retirement allowance for service rendered prior to the effective date of the election under paragraph (2) or (3) of subdivision (a) for an employee covered by any other pension calculation shall be calculated under the employee's prior pension calculation. Any employee who has made an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions pursuant to the election applicable at the date of retirement.

(c) (1) An election for the pension calculation stated in Section 31676.01 by any employee hired before approval of the resolution shall include the signature of the designated beneficiary of the employee's pension acknowledging the election, or shall include a written declaration of one or more of the following as may be applicable:

(A) The beneficiary has no identifiable community property interest in the benefit.

(B) The employee does not know, and has taken all reasonable steps to determine, the whereabouts of the beneficiary.

(C) The beneficiary has been advised of the election and has refused to sign the written acknowledgment.

(D) The beneficiary is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(2) The purpose of this subdivision is to notify the beneficiary, including the employee's spouse or domestic partner, of an election made by the employee that may affect the entitlement of the beneficiary. In addition to the foregoing, if the designated beneficiary of an employee's pension is a spouse or domestic partner of the employee, the election shall also evidence agreement to the election by the spouse or domestic partner.

(3) A person who knowingly provides false information in the written declaration submitted pursuant to paragraph (1) shall be subject to a civil penalty of not less than one thousand dollars ($1,000) and not more than twenty-five thousand dollars ($25,000), in addition

to any civil remedies available to the board. An action to impose a civil penalty pursuant to this paragraph may be brought by any public prosecutor in the name of the people of the state.

(d) In the event the employee elects the pension calculation stated in Section 31676.01, the employee shall be eligible to receive a contribution from the county or district based on the employee's contribution to a defined contribution program.

(e) In addition to employees represented by bargaining units, any other employees not represented by a bargaining unit, as well as supervisors, managers, and executives, may be subject to subdivision (a) pursuant to the resolution described in subdivision (a).

(f) This section shall apply only to members who retire on or after the effective date of the resolution described in subdivision (a).

(g) This section shall not apply to safety members.

(h) A resolution adopted by the board of supervisors under subdivision (a) shall not apply to the employees of any district within the county. The governing body of a district may elect, by resolution adopted by majority vote, to make this section applicable to the employees of the district irrespective of whether the board of supervisors has made that election applicable to employees in the county.

(i) A resolution adopted pursuant to this section may require any member that elects or is deemed to have elected the pension calculation stated in Section 31676.01 to pay additional member contributions beyond those member contributions required under Section 31621. These additional contributions shall not result in an additional benefit to the member. However, the additional contributions paid by a member pursuant to the authority granted by this subdivision shall become part of the accumulated contributions of the member for the following purposes only:

(1) Funding the annuity portion of the member's retirement allowance.

(2) Withdrawal of contributions by the member upon the member's withdrawal from, and termination of membership in, the retirement system.

(j) Any person employed subsequent to the effective date of a resolution adopted under subdivision (a) who would otherwise qualify as a member shall not become a member until he or she certifies his or her election, or otherwise as described above has been deemed to have elected, to be covered by the pension calculation stated in Section 31676.01 or the pension calculation stated in Section 31676.19. Once the election is made or is deemed to have been made, the employee will become a member retroactive to the date of hire. Any employee who subsequently otherwise becomes eligible for the pension calculation stated in Section 31676.19 subsequent to the effective date of a resolution adopted under subdivision (a) shall continue to be covered by any immediately preceding retirement plan to which he or she was entitled from the county or district until he or she certifies his or her election to be covered by the pension calculation stated in Section 31676.01 or the pension calculation stated in Section 31676.19.

(k) In the event that the final day to make an election or perform an act described in this section falls on a weekend or on a county or district holiday, a subsequent election or act shall be timely if made or performed on the immediately following regular business day of the county or district.

(l) This section shall apply only in Orange County.

(m) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

(Added by Stats. 2009, Ch. 362 (SB 752), Sec. 1 – Urgency Statute, Effective October 11, 2009)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 36)

§31679. Minimum retirement benefits

In every county in which a retirement system was established prior to January 1, 1953, if a member enters or has heretofore entered the retirement system with credit for prior service, and has heretofore retired or shall hereafter be retired after attaining the compulsory retirement age, or at age 65 with 20 years service, and his retirement allowance is less than one thousand two hundred dollars ($1,200) a year, exclusive of any annuity based on additional contributions, an additional amount purchased by contributions of the county or district shall be added to his combined annuity and pensions which will cause his total retirement allowance to amount to one thousand two hundred dollars ($1,200) a year, exclusive of any annuity based on additional contributions.

(Amended by Stats. 1953, Ch. 929, Sec. 6)

§31680. Payment for service after retirement prohibited; exceptions; independent contractors

(a) A member retired for service or disability shall not be paid for any service rendered by him or her to the county or district after the date of his or her retirement, except:

(1) As specifically provided in this chapter.

(2) Pursuant to Section 31733.

(3) The county or district may pay and the retired member may receive:

(A) Rewards for ideas or suggestions made by the retired member for the improvement of county or district activities.

(B) Compensation for his or her services on the board.

(4) If the member is subsequently elected to county office after retirement.

(b) As herein used the term "services rendered" shall refer to service rendered as an officer or employee of the county or district and shall not refer to services performed by a retired officer or employee as an independent contractor engaged by a county or district under a bona fide contract for services within the purview of Section 31000 of this code.

(c) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

(Amended by Stats. 1971, Ch. 1322, Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 37)

§31680.01. Service as member of governing board of joint agency

As used in Section 31680 service rendered as a member of a governing board of a joint agency created by two or more counties, under the authority of Chapter 5 (commencing with Section 6500) of Division 7, Title 1 of this code, shall not be deemed service rendered a county or district, provided that the county from whose service the employee was retired is a party to the agreement creating the joint agency.

(Added by Stats. 1963, Ch. 1023, Sec. 1)

§31680.1. Post-retirement service

(a) Any person who has retired under this chapter may, without reinstatement from retirement or loss or interruption of benefits under this chapter, serve as a juror, election officer, field deputy for registration of voters, member of the board of the association or temporarily as a judge when assigned by the Chairman of the Judicial Council and receive any fees payable for that service.

(b) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

(Amended by Stats. 1974, Ch. 554, Sec. 2, Effective August 27, 1974)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 38)

§31680.2. Post-retirement service in positions requiring special skills or knowledge; retired persons who have received unemployment compensation in prior 12-month period

(a) Any person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing them, for a period of time not to exceed 90 working days or 720 hours, whichever is greater, in any one fiscal year or any other 12-month period designated by the board of supervisors and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend their retirement allowance, and no deductions shall be made from their salary as contributions to this system.

(b) (1) This section shall not apply to any retired person who is otherwise eligible for employment under this section if, during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

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

(3) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail, except that the limit on postretirement employment provided in subdivision (a) to the greater of 90 working days or 720 hours shall remain effective.

(Amended by Stats. 1989, Ch. 298, Sec.1)
(Amended by Stats. 2007, Ch. 57 (AB 775), Sec.1)
(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 39)
(Amended by Stats. 2021, Ch. 186 (SB 634), Sec. 14)

§31680.3. Post-retirement service in positions requiring special skills or knowledge; retired persons who have received unemployment compensation in prior 12-month period

(a) Notwithstanding Section 31680.2, any member who has been covered under the provisions of Section 31751 and has retired may be reemployed in a position requiring special skills or knowledge, as determined by the county or district employing the member, for a period of time not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend the person's retirement allowance, and no deductions shall be made from the person's salary as contributions to this system.

(b) (1) This section shall not apply to any retired member who is otherwise eligible for reemployment under this section if, during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

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

(c) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

(Amended by Stats. 1991, Ch. 153, Sec. 1, Effective July 23, 1991)
(Amended by Stats. 2007, Ch. 57 (AB 775), Sec.2)
(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 40)
(Amended by Stats. 2021, Ch. 186 (SB 634), Sec. 15)

§31680.4. Reemployment; reinstatement to active membership; contingent operation

Notwithstanding any other provision of law, a member retired for service and reemployed in a county or district under this chapter shall become again an active member of the retirement association upon (a) his or her application to the board for reinstatement, (b) the determination of the board, based upon medical examination, that he or she is not incapacitated for the duties assigned to him or her; and (c) meeting the conditions for membership in Article 4 (commencing with Section 31550) are met.

For the purposes of this section, the effective date of the member's reinstatement to active membership shall be the first day of the month following the date of reemployment.

Except as permitted in Section 31680.2 or 31680.3, the retirement allowance of the member shall be canceled on the effective date of the member's reemployment and shall be resumed only upon the subsequent termination of the member from employment.

This section shall not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section and Section 31680.5 operative in that county.

(Added by Stats. 1990, Ch. 651, Sec. 1)

§31680.5. Reinstatement; contributions and allowances; contingent operation

(a) Upon reinstatement, pursuant to Section 31680.4, the member's rate of contributions and retirement allowance upon subsequent retirement shall be determined as if the member were first entering the system.

Solely for the purpose of determining the member's eligibility for service retirement under this section, service shall include the member's credited service prior to reinstatement.

(b) The member's allowance upon his or her service or disability retirement or other termination subsequent to the reinstatement shall be the sum of (1) his or her retirement allowance calculated on the basis of credited service rendered after reinstatement in accordance with the formula applicable to him or her plus (2) his or her retirement allowance as it was prior to reinstatement, adjusted by any change after reinstatement in the provisions governing the calculation of his or her allowance which would have applied to him or her had he or she continued in retirement.

The retirement allowance otherwise payable under this section to a member whose allowance prior to reinstatement was paid pursuant to his or her election under Section 31810 shall be reduced as provided in Section 31810. However, for a member reinstated pursuant to Section 31680.4 prior to attaining age 62, the reduction required by Section 31810 shall be the amount which is the actuarial value of the increase in the allowance from date of retirement to date of reinstatement.

Notwithstanding any other provision of this chapter, the retirement allowance payable to any member subject to this section for any credited service for which a retirement allowance was paid prior to reinstatement shall not be less than the retirement allowance which would have been 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 31810.

(c) Notwithstanding Article 10 (commencing with Section 31720), upon retirement for disability subsequent to reinstatement, a member shall receive a disability retirement allowance as follows:

(1) A service-connected disability allowance shall be equal to one-half of his or her final compensation or an allowance computed as prescribed by subdivision (b), whichever is greater.

(2) A nonservice-connected disability allowance shall be computed using the method prescribed by subdivision (b).

(d) This section shall not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section and Section 31680.4 operative in that county.

(Amended by Stats. 1992, Ch. 75, Sec. 1)

§31680.6. Extension of time for which retired persons may be employed in special skill or knowledge positions; retired persons who have received unemployment compensation in prior 12-month period

(a) Notwithstanding Section 31680.2, any county subject to Section 31680.2 may, upon adoption of a resolution by a majority vote by the board of supervisors, extend the period of time provided for in Section 31680.2 for which a person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him or her, not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year or any other 12-month period designated by the board of supervisors and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend his or her retirement allowance, and no deductions shall be made from his or her salary as contributions to this system.

(b) (1) This section shall not apply to any retired person who is otherwise eligible for employment under this section if, during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

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

(c) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

(Amended by Stats. 1992, Ch. 427, Sec. 62)

(Amended by Stats. 2007, Ch. 57 (AB 775), Sec. 3)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 41)

§31680.7. Reemployment after retirement; discontinuance of allowance; reinstatement; determination of benefits; survivor's allowance; inapplicability to early retiree; operative on adoption by county

(a) Notwithstanding any other provision of law, any person who has been retired for service may be reemployed by the county or district from which he or she has been retired. Upon reemployment, the member's retirement allowance shall be discontinued. The retirement allowance may be reinstated upon the discontinuance of reemployment, as specified in this section.

(b)(1) For purposes of this section, "original period of employment" means the period of service with the county or district upon which the member's original retirement allowance was based.

(2) For purposes of this section, "period of reemployment" means the service subsequently rendered by the member after he or she has been reemployed by the county or district.

(c) During the period of reemployment, the member shall accrue retirement service credit at the same tier or benefit level which was applicable to the member during his or her original period of employment. The member's contribution rate shall be based on the same age at entry, and the same statutory formula, which was used in calculating the member's

contribution rate during his or her original period of employment.

(d) Upon termination of the member's period of reemployment for other than death or disability, the member shall begin receiving a monthly service retirement allowance which is the sum of all of the following:

(1) The monthly retirement allowance the member had been receiving immediately prior to the time the member was reemployed by the county or district.

(2) Any cost-of-living increases that would have been added to the monthly retirement allowance if the member's allowance had not been discontinued by reason of reemployment.

(A) A retirement allowance based on the amount of service credit the member accrued during the period of reemployment. This additional retirement allowance shall be calculated using the same benefit formula and tier upon which the member's original retirement allowance was calculated, but shall be based on the member's age upon termination of the period of reemployment and the member's final compensation during that period.

(B) The retirement allowance otherwise payable under this section to a member whose allowance prior to reinstatement was paid pursuant to an election under Section 31810 shall be reduced as provided in that section. However, for a member reinstated pursuant to Section 31680.4 prior to attaining age 62, the reduction required by Section 31810 shall be the amount that is the actuarial value of the increase in the allowance from the date of retirement to the date of reinstatement.

(e) If, after reemployment pursuant to this section, the member becomes disabled and is granted a service-connected or non-service-connected disability retirement by the board, the member's disability retirement allowance shall be the greater of either of the following:

(1) The disability retirement allowance the member would have been entitled to receive if all of the member's service during his or her original period of employment and subsequent period of reemployment had been continuous.

(2) The service retirement allowance the member would have been entitled to receive if the member had not become disabled and had voluntarily terminated his or her period of reemployment.

(f)(1) If the member dies during his or her period of reemployment, and leaves an eligible survivor or survivors entitled to receive a survivor's allowance, the allowance shall be the same amount that it would have been if all of the member's service during his or her original period of employment and subsequent period of reemployment had been continuous. If a lump sum death benefit is payable to the member's designated beneficiary instead of a survivor's allowance, the member's accumulated retirement contributions for purposes of computing the death benefit shall be the sum of the contributions made by the member during the period of reemployment, plus interest credited thereon, and the excess, if any, of the member's total contributions during the original period of employment, including interest credited thereon, over the total amount of retirement benefits paid to the member between the member's original retirement from the county or district and the member's reemployment pursuant to this section.

(2) Upon or after service retirement, the continuance shall be paid upon the member's death to the respective elected beneficiaries from each of the separate retirement period elections.

(g) This section shall not apply to an employee who receives an additional retirement benefit as an inducement to retire early.

(h) This section shall not be operative in any county until the board of supervisors of that county, by resolution adopted by a majority vote, makes this section applicable in that county.

(Added by Stats. 1993, Ch. 291 (AB 2069), Sec. 1)

§31680.8. (Operative date contingent) Reemployment and reinstatement; Additional Retirement benefit; Applicability (Los Angeles)

(a) Notwithstanding any other provision of law, a safety member who was required to retire for service because of age during the operative dates of, and as described in, Section 31662.4, 31662.6, 31662.8, or 31663, may be reemployed by the county in the same position that he or she retired from and be reinstated to active membership upon all of the following:

(1) His or her application to the board for reinstatement to active membership.

(2) The determination of the board, based on medical advice, that the member is not incapacitated for the duties of the position assigned to him or her.

(b) The member shall be reinstated to active membership in the plan or tier that he or she retired from, effective the first day of the month following the date of reemployment, and his or her membership shall be the same as if unbroken by retirement. Notwithstanding any other provision of law, the credited service of the member rendered both before and after reinstatement shall be included for the purpose of determining the eligibility of the member for benefits under this chapter.

(c) Upon reemployment pursuant to this section, the retirement allowance of the member shall be cancelled. Upon the subsequent termination of the member from employment, the retirement allowance of the member shall be recalculated on the basis of the credited service rendered both before and after reinstatement pursuant to the formula applicable to the member prior to reinstatement. Notwithstanding any other provision of law, the reinstatement rights conferred by this section shall not entitle a person to a retirement right or benefit that exceeds the limitations in the Internal Revenue Code that apply to public retirement systems.

(d) Upon reinstatement pursuant to this section, the rate of contribution of the member shall be based on the same age at entry that was used in calculating the contribution rate of the member during his or her original period of employment.

(e) This section shall apply only to a county of the first class as described in Section 28020 and shall not become operative in that county until the board of supervisors, by resolution adopted by majority vote, makes this section operative in that county.

(Added by Stats. 2006, Ch. 120 (AB 2366), Sec. 1)

§31680.9. Application of §31680.8 (Los Angeles)

(a) The application of Section 31680.8 shall be limited by this section. Section 31680.8 shall not apply to either of the following:

(1) A safety member who was required to retire as described in Section 31663.2.

(2) A member who retired as a safety member described in Section 31470.4 or 31470.6.

(b) This section shall apply only to a county of the first class as described in Section 28020.

(Added by Stats. 2006, Ch. 846 (AB 2863), Sec. 4, Effective September 30, 2006)

(Repealed by Stats. 2008, Ch. 21 (SB 579), Sec. 3, Effective June 2, 2008)

§31680.10 Reinstatement after involuntary termination; repayment to retirement system; "administrative proceeding"

(a) A person who has been retired under this chapter for service following an involuntary termination of their employment, and who is subsequently reinstated to that employment pursuant to an administrative or judicial proceeding that is final and not subject to appeal, shall be reinstated from retirement as if there were no intervening period of retirement. Except as provided in subdivision (b), the requirements of Sections 31680.4, 31680.5, and 31680.7 shall not apply to that reinstatement.

(b) The allowance received by the person during retirement shall be repaid by the person to the retirement system from which they retired in accordance with the retirement system's repayment policy.

(1) Member contributions shall be made for any period for which salary is

awarded in the administrative or judicial proceedings in the amount that would have been contributed had the member's employment not been terminated, and the person shall receive credit for the period for which salary is awarded. If the person fails to repay the allowance received during retirement, then the person's contributions and allowance upon retirement subsequent to reinstatement shall be calculated under Sections 31680.5 or 31680.7, as applicable.

(2) The retirement system shall have discretion regarding the timing of repayment of employer contributions for the period described in paragraph (1).

(c) As used in this section, "administrative proceeding" means the process for appeal of an involuntary termination established by county or district ordinance or charter.

(d) This section shall only apply to persons reinstated to employment by final action as described in subdivision (a), on or after the effective date of this section, pursuant to an administrative or judicial proceeding.

(Added by Stats. 2020, Ch. 275 (AB 2101), Sec. 48)

§31680.15. Service without reinstatement

(a) On and after January 1, 2018, a person who has retired under this chapter may serve without reinstatement from retirement or loss or interruption of benefits under this chapter, as an elective officer.

(b) If a retired person serves without reinstatement from retirement in an elective office and part or all of his or her retirement allowance is based on service in that elective office, the portion of the allowance based on service in that elective office shall be suspended during incumbency in that elective office. The entire retirement allowance shall be paid for time on and after the person vacates the elective office in the monthly amount payable had the allowance not been suspended.

(Added by Stats. 2017, Ch. 363 (SB 112), Sec. 6)

§31680.16 Service as a nonsalaried member of board or commission without reinstatement or loss or interruption of benefits

(a) Notwithstanding Section 31680, this section shall apply to a retired person who is receiving a retirement benefit from a county retirement system and is appointed or elected to either of the following:

(1) A county board or commission of the county that is a covered employer of the retirement system.

(2) A board or commission operating under a participating agency of the county that is a covered employer of the retirement system.

(b) A person who is retired under this chapter may serve as a nonsalaried member of a board or commission without reinstatement from retirement or loss or interruption of benefits under this chapter or the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1), provided the appointment or election is to a part-time board or commission. A retired person whose service without reinstatement is authorized by this subdivision shall not acquire benefits, service credit, or retirement rights with respect to the appointment or election, but may receive any per diem that is authorized to all members of the board or commission.

(Added by Stats. 2022, Ch. 524 (AB 1971), Sec. 3)

§31681. Minimum retirement benefits in counties exceeding 2,000,000; retroactive operation of section

In every county having a population in excess of 2,000,000, the minimum retirement allowance for every member who has heretofore or who shall be hereafter retired at compulsory retirement age and who is credited with 15 or more years of service, including prior service, or at age 65 with 20 years of service, shall receive a total retirement allowance

of not less than one thousand two hundred dollars ($1,200) per year, exclusive of any annuity based on additional contributions. This section shall be retroactively operative as of September 22, 1951.

(Amended by Stats. 1953, Ch. 843, Sec. 2)

§31681.1. Increase in benefits of previously retired members; minimum benefits; claim against county; calculation of benefits

(a) Notwithstanding any other provisions of this chapter, every retirement allowance payable for time commencing on the effective date of this section to any previously retired member of a superseded system not established pursuant to either Chapter 4 or Chapter 5 is hereby increased, by increase of the pension portion thereof, to the amount it would be if the previously retired member of such superseded system had been retired under the provisions of this chapter, and the provisions of this chapter, as they are in effect on the effective date of this section, had been in effect at the time of the retirement of the previously retired member, assuming that all of the service with which he was credited at the time of his actual retirement constituted prior service under this chapter.

(b) However, if such retirement allowance payable for time after the effective date of this section, as increased by subdivision (a) of this section, is less than one thousand two hundred dollars ($1,200) a year, and if the previously retired member of the superseded system (not established pursuant to either Chapter 4 or Chapter 5) was credited at the time of his retirement with 20 or more years of service, or was retired after attaining the compulsory age of retirement, an additional amount provided by contributions of the county shall be added to his retirement allowance which will cause his total retirement allowance to amount to one thousand two hundred dollars ($1,200) a year.

(c) This section does not authorize any decrease in any such retirement allowance, nor does this section give any such previously retired member of such superseded retirement system, or his successors in interest, any claim against the county for any increase in any retirement allowance paid or payable for time prior to its effective date. Calculations of retirement allowances under this section shall be made on the basis of current interest rate and mortality tables.

(Added by Stats. 1953, Ch. 929, Sec. 7)

§31681.2. Increase of benefits of members retired prior to January 1, 1948; adoption of section by county boards

Every retirement allowance payment for time commencing on the effective date of this section to or on account of any member of this system or of a superseded system, who was retired prior to January 1, 1948, is hereby increased by twenty-five dollars ($25) per month if the retired member is entitled to be credited with 20 years or more of service, or, if the retired member is entitled to be credited with less than 20 years of service, by an amount which bears the same ratio to twenty-five dollars ($25) as the member's completed years of service with which the member is entitled to be credited bears to 20 years.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Amended by Stats. 1963, Ch. 818, Sec. 1)

§31681.4. Increase of benefits of members retired after January 1, 1948, but prior to February 1, 1955; adoption of section by county boards

Every retirement allowance for time commencing on the effective date of this section to or on account of any member of this system or of a superseded system, who was retired or died on or after January 1, 1948, but prior to February 1, 1955, or such other date prior to February 1, 1955, as the board of supervisors in any county shall specify by resolution, is hereby increased

by twenty-five dollars ($25) per month if the retired member is entitled to be credited with 20 years or more of service, or, if the retired member is entitled to be credited with less than 20 years of service, by an amount which bears the same ratio to twenty-five dollars ($25) as the member's completed years of service with which the member is entitled to be credited bears to 20 years.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Amended by Stats. 1963, Ch. 818, Sec. 2)

§31681.5. Increase of benefits payable to retired members for time commencing on September 15, 1961

Every retirement allowance payable for time commencing on the effective date of this section to, or on account of any member of this system or of a superseded system, who has been retired for service, is hereby increased as follows:

Period during which retirement became effective	Percentage of increase in monthly retirement allowance
On or prior to June 30, 1956	10%
Twelve months ended June 30, 1957	8%
Twelve months ended June 30, 1958	6%
Twelve months ended June 30, 1959	4%
Twelve months ended June 30, 1960	2%

In no event shall any allowance be increased by an amount greater than fifty dollars ($50) a month nor less than ten dollars ($10) a month.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1961, Ch. 1120, Sec. 1)

§31681.6. Increase of benefits to retired employees in certain counties

In any county which made Section 31676.1 of the Government Code applicable effective July 1, 1962, the board of supervisors may by resolution make the benefits provided by Section 31676.1 applicable to employees who retired prior to July 1, 1962, and after the board of supervisors first adopted a resolution providing that section 31676.1 would become applicable provided that such employees' retirement was by reason of having reached the age of compulsory retirement prior to July 1, 1962. In such instance the employees shall be entitled to the benefits provided by Section 31676.1 as of July 1, 1962.

(Added by Stats. 1963, Ch. 767, Sec. 1)

§31681.7. Temporary increase of benefits; finding by board of supervisors

Every retirement allowance payable during the time this section is operative in any county to, or on account of any member of this system or of a superseded system, who has been retired for service shall be increased by an amount equal to the product one dollar ($1) times years of service, not to exceed 20 years, times the number in the following table:

Period during which retirement became effective	Multiply by
On or prior to June 30, 1957	2.0
Twelve months ended June 30, 1958	1.5
Twelve months ended June 30, 1959	1.0
Twelve months ended June 30, 1960	0.5

This section shall not be operative in any county except as follows: The board of supervisors of a county at any time and from time to time may find that economic conditions are such as to require either that this entire section, or this section as applied to one or more categories of members in the above table be applicable in such county. The board of supervisors of such county from time to time may either rescind or modify such finding and either find that economic conditions do not require that this section be applicable at all in such county or be applicable to a greater, lesser, or different extent than previously found. This section or this section as applied to one or more categories of members in the above table, as the case may be, shall be applicable in such county when and only during the time when such finding is in effect. The giving of additional retirement benefits pursuant to this section shall create no additional contractual rights and shall not preclude the withdrawal of such benefits either by action of the board of supervisors or of the Legislature.

(Added by Stats. 1963, Ch. 634, Sec. 1)

§31681.8. Service retirement formula; service credited to nonmember

(a) The board of supervisors in any county under the County Employees Retirement Law of 1937 may provide, effective on a date determined by the board, for cost-of-living payments, in addition to those payable under articles 16.5 and 16.6, to members of this system or a superseded system who retired and to their surviving beneficiaries who are receiving allowances under this system, provided the following conditions are met:

(1) On January 1 of the year of adoption or readoption of this section, the accumulations established by Section 31870, 31870.1, or 31870.2, as applicable, shall, for any member, equal or exceed 25 percent in order for that member to be eligible for such cost-of-living payment.

(2) The payments shall be made either quarterly or monthly to those members and survivors eligible for the first payment.

(3) The amount of each payment is equal to the product of a sum determined by the board of supervisors, but not to exceed fifteen dollars ($15) times the member's full years of county service not exceeding 30 years.

(b) The payments made pursuant to this section and Section 31739.5 shall be made only during the lifetimes of the members or their survivors receiving allowances and to no other person.

(c) The payments made pursuant to this section and Section 31739.5 shall not be considered as a part of the monthly retirement allowance, optional death allowance, or annual death allowance, nor shall any such payments be construed as guaranteeing any similar payments in any subsequent year.

(d) Notwithstanding subdivision (a), the payments to beneficiaries of members pursuant to Section 31760.1, 31765.1, 31781.1, or 31785 or to beneficiaries who elected a combined benefit pursuant to Section 31781.3 shall be 60 percent of the payments which otherwise would have been payable under subdivision (a) to the members.

(e) Notwithstanding subdivision (a), the payments to beneficiaries of members who elected optional settlement 3 pursuant to Section 31763 shall be 50 percent of the payments which otherwise would have been payable under subdivision (a) to the member.

(f) This section shall not be operative in any county in any year, unless it is adopted or readopted in any year by the board of supervisors. Any such adoption or readoption in any particular year shall not be construed to require any adoption or readoption in any subsequent year.

Before adoption by the board of supervisors in any year, the cost of the payments authorized by this section and Section 31739.5 shall be determined by a qualified actuary and the board of supervisors shall, with advice of the actuary, provide for the payment of such cost in such manner as to fully fund the benefits on a sound actuarial basis, including use of available funds in the reserves provided in Section 31592.2 with the approval of the retirement

board, or an increase in the employer rates of contributions, or a combination of these sources of payments. This actuarial determination shall be made only upon authorization by the board of supervisors.

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510[1]) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.[2]

(Amended by Stats. 1988, Ch. 76, Sec. 1)

[1]Renumbered: see, now, Section 31610.

[2]Renumbered: see, now, Section 31618.

§31681.51. Increase in retirement and optional death allowances; adoption of section by ordinance

Every retirement allowance or optional death allowance (including an allowance payable to a survivor of a member) payable to or on account of any member of this system or of a superseded system who has been or was retired for service is hereby increased as follows:

Period during which retirement became effective	Percentage of increase in monthly retirement allowance
On or prior to June 30, 1962	10%
Twelve months ended June 30, 1963	8%
Twelve months ended June 30, 1964	6%
Twelve months ended June 30, 1965	4%
Twelve months ended June 30, 1966	2%

In no event shall any allowance be increased by an amount greater than fifty dollars ($50) a month nor less than ten dollars ($10) a month.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance adopted by majority vote, make the provisions of this section applicable in such county.

(Amended by Stats. 1968, Ch. 449, Sec. 56)

§31681.52. Increase in retirement and optional death allowances; adoption of section by ordinance

Every retirement allowance or optional death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system or of a superseded system who has been or was retired for service is hereby increased as follows:

Period during which retirement became effective	Percentage of increase in monthly retirement allowance
On or prior to June 30, 1967	10%
Twelve months ended June 30, 1968	8%
Twelve months ended June 30, 1969	6%
Twelve months ended June 30, 1970	4%
Twelve months ended June 30, 1971	2%

In no event shall any allowance be increased by an amount greater than seventy-five dollars ($75) a month. A member with credit for 10 or more years of service in the system shall receive not less than twenty-five dollars ($25) a month.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance adopted by a majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1973, Ch. 298, Sec. 1)

§31681.53. Increase in retirement and optional death allowances under $500; adoption by county

(a) Except as provided in subdivision (b), a retirement allowance or optional death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system or of a superseded system who has been or was retired for service which did not on July 1, 1976 exceed five hundred dollars ($500) per month is hereby increased as follows:

Number of years of county or district service	Percentage of increase in monthly retirement allowance
25 or more years	10%
20-25 years	8%
15-20 years	6%

(b) No allowance shall be increased to more than five hundred dollars ($500) per month pursuant to subdivision (a).

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1976, Ch. 627, Sec. 1)

§31681.54. Retirement or optional death allowance; increase; limitation; adoption by board of supervisors

(a) Except as provided in subdivision (b) of this section, a retirement allowance or optional death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system, or of a superseded system, who retired for service on or before December 31, 1971, is hereby increased as follows:

Number of years of county or district service	Percentage of increase in monthly retirement allowance
25 or more years	10%
20-25 years	8%
15-20 years	6%
10-15 years	4%

(b) No allowance shall be increased to more than five hundred dollars ($500) per month pursuant to subdivision (a) of this section.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1980, Ch. 442, Sec. 2)

§31681.55. Allowance increases for members who retired or died prior to January 1, 2001

Effective the first day of the first month after adoption of this section by the board of supervisors, the allowance paid with respect to any member of this system who retired or died prior to January 1, 2001, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

Period during which retirement or death occurred:	Percentage
January 1, 1998, or later	0.0%
12 months ending Dec. 31, 1997	1.0%

Period during which retirement or death occurred:	Percentage
24 months ending Dec. 31, 1996	2.0%
60 months ending Dec. 31, 1994	3.0%
60 months ending Dec. 31, 1989	4.0%
120 months ending Dec. 31, 1984	5.0%
12 months ending Dec. 31, 1974, or earlier	6.0%

The percentage shall be applied to the allowance payable on the effective date, and the allowance as so increased shall be paid for time on and after that date and shall be subject to annual cost-of-living adjustments.

(b) This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in that county.

(Added by Stats. 2000, Ch. 237 (AB 1937), Sec. 4)

(Amended by Stats. 2001, Ch. 159 (SB 662), Sec. 117)

§31682. County of thirteenth class; supplemental benefits; cost of funding; contingent operation (Ventura)

The board of retirement of a county of the 13th class, as defined by Sections 28020 and 28034, as amended by Chapter 1204 of the Statutes of 1971, may elect to provide, by resolution, a vested supplemental retirement benefit of one hundred eight dollars and forty-four cents ($108.44) per month to all current and future retired members and their survivors eligible for an optional settlement or a survivors allowance under this chapter.

Prior to the adoption of a resolution by the board of retirement to provide the supplemental retirement benefit provided for in this section, the cost of funding this supplemental retirement benefit into perpetuity shall be determined by a qualified actuary.

This section shall not be operative until such time as the board of supervisors shall, by majority vote, adopt a resolution making the provisions of this section applicable.

(Added by Stats. 1990, Ch. 914, Sec. 1, Operative on date prescribed by its own provisions)

§31682.2. Supplemental retirement benefit eligibility requirements for specified employees (Ventura)

If the board of retirement of a county of the 13th class adopts, or has adopted, a resolution pursuant to Section 31682, then for those persons who are first employed by an employer of the system on or after January 1, 2006, the vested supplemental benefit shall be paid only to a retiree who has accrued a minimum of five years' service credit in the system as a result of employment with the employer, except that a member who receives a disability retirement that is service connected is not subject to the five-year service requirement.

(Added by Stats. 2005, Ch. 85 (AB 1008), Sec. 1)

§31683. County of ninth class; additional benefits (Contra Costa)

(a) The board of supervisors in a county of the ninth class, as defined in Sections 28020 and 28030, may elect to provide an additional benefit to members who retired and to their surviving beneficiaries who are receiving allowances under this system, if the following conditions are satisfied:

(1) A qualified actuary determines the cost of the payments authorized by this section.

(2) The board of retirement fully funds the costs of the payments by this section through a transfer of funds from the reserves as provided in Section 31592.2.

(b) The payments shall be made monthly only to those members and their surviving beneficiaries who are receiving allowances under this system on a date established by the board

of retirement.

(c) The first payment shall be effective on the first day of the first full month that occurs after adoption of this section by the board of supervisors.

(d) The amount of each additional monthly benefit to a retired member shall be two hundred dollars ($200).

(e) Notwithstanding subdivision (d), the monthly payments to beneficiaries of members pursuant to Section 31760.1, 31765.1, 31781.1, or 31785, or to beneficiaries who elect a combined benefit pursuant to Section 31781.3 shall be one hundred twenty dollars ($120).

(f) Notwithstanding subdivision (d), the monthly payments to beneficiaries of members who elected optional settlement three pursuant to Section 31763 shall be one hundred dollars ($100).

(g) The payments made pursuant to this section shall be considered a part of the monthly allowance and shall be increased by any subsequent cost-of-living allowance under Article 16.5 (commencing with Section 31870).

(Added by Stats. 2001, Ch. 67 (SB 795), Sec. 1)

Article 8.4

Community Property

(Article 8.4 added by Stats. 1994, Ch. 670 (SB 1500), Sec. 2)

§31685. Legal separation or marriage dissolution; date of separation; separation of member and nonmember accounts; nonmember's rights

(a) Upon the legal separation or dissolution of marriage of a member, after joining the retirement system as a party to the proceeding pursuant to Chapter 6 (commencing with Section 2060) of Part 1 of Division 6 of the Family Code, the court shall include in the judgment or a court order the date on which the parties separated.

(b) If the court orders the division of the community property interest in the system pursuant to Section 2610 of the Family Code, the accumulated contributions and service credit attributable to periods of service during the marriage shall be divided into two separate and distinct accounts in the name of the member and nonmember, respectively. Any service credit or accumulated contributions that are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member.

(c) Upon receipt of the court order separating the account of the member and the nonmember pursuant to this section, the board shall determine the rights of the nonmember, taking into consideration the court order and the account of the member. These rights may include the following:

(1) The right to a retirement allowance.

(2) The right to a refund of accumulated retirement contributions.

(3) The right to redeposit accumulated contributions that are eligible for redeposit by the member.

(4) The right to purchase service credit that is eligible for purchase by the member.

(5) The right to designate a beneficiary to receive his or her accumulated contributions payable where death occurs prior to retirement.

(6) The right to designate a beneficiary for any unpaid allowance payable at the time of the nonmember's death.

(d) In the capacity of nonmember, the nonmember shall not be entitled to any disability retirement allowance.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.01. Benefit determination

Benefits enumerated in this article shall be determined in accordance with the provisions of this chapter or the California Public Employees' Pension Reform Act of 2013, whichever is applicable.

(Added by Stats. 2013, Ch. 247 (AB 1380), Sec. 42)

§31685.1. Nonmember

"Nonmember," as used in this article, means the spouse or former spouse, or child or other dependent as ordered by the court, of a member, who as a result of petitioning the court for the division of community property, has been awarded a distinct and separate account reflecting specific credited service and accumulated contributions.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.2. Nonmember awarded separate account; right to refund; application; effective date; waiver

(a) The nonmember who is awarded a separate account shall have the right to a refund of the accumulated contributions and interest credited in the separate account of the nonmember.

(b) The nonmember shall file an application on a form provided by the system to obtain the refund.

(c) The refund shall be effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember and addressed to the latest address for the nonmember on file with the system.

(d) The nonmember is deemed to have permanently waived all rights in the system and all rights to any future retirement benefits pertaining to the service credit accumulated contributions, or both, when the refund becomes effective.

(e) The nonmember may not cancel a refund once it has become effective.

(f) The nonmember shall have no right to elect to redeposit the refunded accumulated contributions from the nonmember's account after the refund is effective, and shall have no right to redeposit or to purchase service credit after the refund becomes effective.

(g) If at the time of the marriage dissolution or legal separation, the member does not have the necessary minimum credited service to elect deferred retirement, the nonmember shall receive a refund of the accumulated contributions and credited interest placed in the nonmember's account.

(h) If the nonmember receives a refund under this section, the member may elect to redeposit accumulated contributions and interest refunded to the nonmember and to receive credit for the service time that had been forfeited by the nonmember. The election shall be made within five years of receipt of notice from the board of eligibility to redeposit the contributions. The board shall establish the manner of payment and the time period within which the redeposit of contributions may be made. The interest rate established by the board shall be the same as that charged to members on all other redeposits.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.3. Nonmember's redeposit of accumulated contributions and interest previously refunded to member; court determination; member's rights

(a) The nonmember who is awarded a separate account may redeposit accumulated contributions and interest previously refunded to the member in accordance with the determination of the court required by Section 31685.

(b) The nonmember may redeposit only those accumulated contributions and interest that were previously refunded to the member and that the court has determined to be the community property interest of the nonmember in the accumulated contributions.

(c) If the nonmember elects to redeposit, he or she shall repay the accumulated

contributions and interest.

(d) An election to redeposit shall be considered an election to repay all accumulated contributions and interest previously refunded that the nonmember is entitled to redeposit.

(e) The right of the nonmember to redeposit is subject to the regulations of the board.

(f) The member has no right to the court-determined nonmember share of any previously refunded accumulated contributions and interest whether or not the nonmember elects to redeposit until the effective date of any refund requested by the nonmember pursuant to Section 31685.2, or the nonmember dies before redeposit is completed. However, any right to redeposit previously refunded accumulated contributions and interest not explicitly awarded to the nonmember by the judgment or court order shall be deemed the exclusive property of the member.

(g) Any redeposit by the nonmember shall be made by lump sum before retirement.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.4. Service credit; nonmember's right to purchase community property share; court determination; member's rights

(a) The nonmember shall have the right to purchase service credit pursuant to the determination of the court required by Section 31685.

(b) The nonmember may purchase only that service credit that the court has determined to be the community property share of the nonmember spouse.

(c) If the nonmember elects to purchase service credit, he or she shall pay, prior to retirement, the contributions and interest pursuant to the regulations of the board.

(d) The nonmember shall have no right to purchase the service credit after the effective date of a refund of the accumulated contributions in the separate account of the nonmember.

(e) The member has no right to the court-determined nonmember share of the service credit whether or not the nonmember elects to purchase the service credit until the effective date of any refund requested by the nonmember pursuant to Section 31685.2, or the nonmember dies before the service credit is purchased. However, any service credit eligible for purchase that is not explicitly awarded to the nonmember by the judgment or court order shall be deemed the exclusive property of the member.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.5. Nonmember's retirement; conditions

A nonmember shall be retired upon his or her written application to the board if all of the following conditions are met:

(a) The member or nonmember has attained the minimum age prescribed by the applicable service retirement formula of the member.

(b) On the date of retirement, the member had sufficient credited service to retire for service, notwithstanding any service credit awarded to the nonmember.

(Added by Stats. 1994, Ch. 670, Sec. 2)

(Amended by Stats. 1997, Ch. 223 (AB 1598), Sec. 4)

§31685.6. Effective date of retirement; accrual of retirement allowance

Retirement shall be effective and the retirement allowance shall begin to accrue as of the date designated in the nonmember's application as the effective date of retirement, or the day following the date of court order dividing the community property of the member and nonmember, if later. In no event shall the retirement become effective or the retirement allowance begin to accrue earlier than the first day of the month in which the nonmember's application is received at an office of the board or by an employee of the system designated by the board.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.7. Final compensation; retirement dates of nonmember and member

(a) If the nonmember retires before the member retires, "final compensation" means the highest average annual compensation earnable by the member during the three consecutive years, or one year where applicable, prior to the date the nonmember retires. The nonmember may designate an earlier period to be used where the time period of the nonmember's marriage to the member and membership correspond.

(b) If the member has retired before the nonmember, the "final compensation" for the nonmember shall be the final compensation used in calculating the member's retirement.

(c) Upon receipt of an application for retirement by the member, the board shall notify the nonmember that his or her final compensation will not increase any further and shall identify which options are available to the nonmember and the impact thereof.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.8. Service retirement formula; service credited to nonmember

A nonmember entitled to receive a retirement allowance shall receive a retirement allowance based on the service retirement formula applicable to the service credited to the nonmember.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.9. Disability of member

If a member becomes disabled, the combined benefit payments to both the member and nonmember shall not exceed the amount that would otherwise be paid to the member alone.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.95. Retirement plan payments resulting in increased benefits; actuarial economic and demographic assumptions and valuations

(a) Under no circumstances shall a retirement plan be required to make payments in any manner that will result in an increase in the amount of benefits provided under the plan.

(b) All benefits determined pursuant to Part 5 (commencing with Section 2610) of Division 7 of the Family Code and this article shall be determined on the basis of the actuarial economic and demographic assumptions and values prescribed by the board of the affected retirement plan.

(Added by Stats. 1994, Ch. 670, Sec. 2)

§31685.96. Age factors

(a) The age factor applicable to the nonmember shall be based on the age of the nonmember at the time of his or her retirement.

(b) The board shall adopt age factors as recommended by the actuary.

(Added by Stats. 1994, Ch. 670, Sec. 2)

(The following section has the same number as the section immediately preceding it)

§31685.96. Operation of article; resolution by county

This article shall not be operative in any county until the board of supervisors shall, by resolution adopted by a majority vote, make this article applicable in the county.

(Added by Stats. 1994, Ch. 670, Sec. 2)

Article 8.5

Group Insurance

(Article 8.5 added by Stats. 1961, Ch. 1876, Sec. 1)

§31691. Ordinance or resolution for contribution toward premiums

(a) The board of supervisors of any county by ordinance, or the governing body of any district under the County Employees Retirement Law, by ordinance or resolution, may provide for the contribution by the county or district from its funds and not from the retirement fund, toward the payment of all or a portion of the premiums on a policy or certificate of life insurance or disability insurance issued by an admitted insurer, or toward the payment of all or part of the consideration for any hospital service or medical service corporation, including any corporation lawfully operating under Section 9201 of the Corporations Code, contract, or for any combination thereof, for the benefit of any member heretofore or hereafter retired or his or her dependents. At least one of these plans shall include free choice of physician and surgeon.

(b) The benefits provided by this section are in addition to any other benefits provided by this chapter.

(c) The board of retirement may provide on behalf of a member who has retired, or an eligible surviving spouse who was married to the member for one year prior to the date of retirement of the member, or, if there is no such spouse, the surviving unmarried children of the member who are under 18 years of age, or under 22 years of age and full-time students, for the hospital and medical benefits enumerated in subdivision (a) from the earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. The board may provide for the benefits enumerated from like sources when the board of supervisors or the governing body of a district has elected to provide these benefits to its active employees, even though the benefits are not provided to those who have retired from the service of the county or district. Hospital and medical benefits provided under this section shall be provided in compliance with Section 401(h) of Title 26 of the United States Code. They may also be provided in compliance with Section 31592.2.

(d) Except in a county of the first class, upon adoption by any county providing benefits pursuant to this section, that has adopted Article 5.5 (commencing with Section 31610), the Supplemental Retiree Benefits Reserve established pursuant to Section 31618 shall be substituted for the excess earnings described in subdivision (c).

(Amended by Stats. 1983, Ch. 886, Sec. 6)

(Amended by Stats. 2006, Ch. 538 (SB 1852), Sec. 308)

(Amended by Stats. 2014, Ch. 740 (AB 2473), Sec. 11)

§31691.1. Increase in allowance from excess earnings in lieu of contributions for premiums

(a) In lieu of the benefits prescribed by Section 31691, the board of retirement may provide on behalf of a member who has retired, or an eligible surviving spouse who was married to the member prior to the date of retirement of the member, or, if there is no such spouse, the surviving unmarried children of the member who are under 18 years of age, or under 22 years of age and full-time students, for an equivalent increase in allowance from the earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. Any benefit provided by this section shall be subject to Section 31692.

(b) Except in a county of the first class, upon adoption by any county providing benefits pursuant to this section that has adopted Article 5.5 (commencing with Section 31610), the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits

Reserve established pursuant to Section 31618.

(Amended by Stats. 1983, Ch. 886, Sec. 7)

(Amended by Stats. 2006, Ch. 538 (SB 1852), Sec. 309)

(Amended by Stats. 2014, Ch. 740 (AB 2473), Sec. 12)

§31691.2. Enrollment in authorized plans; board of retirement; control; administrative costs (Los Angeles)

The board of retirement in a county of the first class may permit active members and their dependents to enroll in any plan authorized in Section 31691. The board shall have exclusive control over the plan benefits and administration to the same degree and to the same extent it otherwise has control over plan benefits and administration for retired members, and may recover reasonable administrative costs from the county or plan participants.

This section shall not be operative until the board of supervisors, by resolution adopted by a majority vote, makes this section applicable in the county.

(Added by Stats. 1998, Ch. 996 (AB 2764), Sec. 5)

§31692. Amendment or repeal of ordinance or resolution

The adoption of an ordinance or resolution pursuant to Section 31691 shall give no vested right to any member or retired member, and the board of supervisors or the governing body of the district may amend or repeal the ordinance or resolution at any time except that as to any member who is retired at the time of such an amendment or repeal, the amendment or repeal shall not be operative until ninety (90) days after the board or governing body notifies the member in writing of the amendment or repeal. In counties with a population of 5,000,000 or more, the adoption of an ordinance or resolution pursuant to Section 31691 shall remain in effect for any member heretofore or hereafter retired for as long as the board of supervisors or governing body provides similar types of benefits to any active member in current county service.

(Amended by Stats. 1982, Ch. 961, Sec. 1)

§31693. Proposed changes to employee health care benefits affecting retired employees; notice and comment

In any county, district, or county retirement system providing benefits under this article, the county, district, or county retirement system shall provide any recognized retiree organization, as defined in Section 31471.5, that is recognized by the retirement system of the county or district as representing the retired employees of that county or district reasonable advance notice of any proposed changes in employee health care benefits affecting those retired employees and the organization shall have a reasonable opportunity to comment prior to any formal action by the county, district, or county retirement system on the proposed changes. As used in this section, "proposed changes" means significant changes affecting health care benefits, including, but not limited to, changes in health care carriers, plan design, and premiums.

(Amended by Stats. 2012, Ch. 178 (SB 1382), Sec. 6)

Article 8.6

Post-Employment Benefits

(Added by Stats. 2006, Ch. 846 (AB 2863), Sec. 6, Effective September 30, 2006)
(Former Article 8.6 entitled "Alternative Group Insurance" was added by Stats. 1991, Ch. 1149, Sec. 3; Article applicable in counties adopting it as prescribed by Section 31694. Repealed by Stats. 2006, Ch. 846 (AB 2863), Sec. 5, Effective September 30, 2006)

§31694. Post-Employment Benefits Trust Account; establishment; purpose; contributions; use of funds

(a) The board of supervisors of a county or the governing body of a district or other public entity may, by ordinance or resolution and with the agreement of the board of retirement, provide for the contribution of funds by the county, a district, or other public entity into a Post-Employment Benefits Trust Account. The retirement system may establish the Post-Employment Benefits Trust Account as a part of the retirement fund. The Post-Employment Benefits Trust Account shall be established for the sole purpose of funding the benefits provided under a post-employment group health, life, welfare, or other supplemental benefits plan or plans established and maintained by the county or district, which plan or plans may provide for self-insured coverage or the payment of all or a portion of the premiums on one or more insurance contracts or health care service plan contracts for retired employees of the participating county, district, or other public entity, and their qualified spouses, dependents and beneficiaries.

(b) Contributions to the Post-Employment Benefits Trust Account may include the proceeds of debt issued by the county, a district, or other public entity solely for the purpose of funding post-employment health, life, welfare, or other supplemental benefits.

(c) The post-employment benefits provided with the funds contributed to the Post-Employment Benefits Trust Account are in addition to any other benefits provided under this chapter.

(d)(1) Except as described in subdivision (b) of Section 31694.1, the assets of the retirement fund may not be used, directly or indirectly, to pay the cost of any benefits provided through the Post-Employment Benefits Trust Account or, except to the extent allowed by federal tax law, to pay any direct or indirect cost of administering the Post-Employment Benefits Trust Fund.

(2) Except as described in subdivision (c) of Section 31694.1, funds in the Post-Employment Benefits Trust Account may not be used, directly or indirectly, to pay the cost of any other benefits provided under this chapter.

(Added by Stats. 2006, Ch. 846 (AB 2863), Sec. 6, Effective September 30, 2006)
(Amended by Stats. 2007, Ch. 327 (AB 1124), Sec. 4)

§31694.1. Funds accounted for separately in Post-employment Benefits Trust Account; Investment and administration of funds

(a) The retirement system shall separately account for the funds contributed to the Post-Employment Benefits Trust Account by each participating employer and the earnings and expenses related to the investment and administration of those funds.

(b) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole, exclusive, and plenary authority and fiduciary responsibility over the investment of the funds in the Post-Employment Benefits Trust Account, consistent with Sections 31594 and 31595, and as provided

for in Section 17 of Article XVI of the California Constitution. The board of retirement or board of investments may invest funds in the Post-Employment Benefits Trust Account with those of the retirement system, to the extent allowed by federal tax laws. The investment earnings and investment expenses attributable to the investment activity of the Post-Employment Benefits Trust Account shall be accounted for separately from the investment earnings and expenses of the retirement fund.

(c) The funds in and investment earnings of the Post-Employment Benefits Trust Account shall be used to pay the reasonable costs related to investment expenses and administration of the Post-Employment Benefits Trust Account to the extent allowed by federal tax law. Those expenses shall not be deemed to be an investment or administrative expense of a retirement system under this chapter.

(d) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, may establish rules and procedures governing the investments and administration of the Post-Employment Benefits Trust Account. The board of retirement or the board of investments shall determine the rate of interest to credit the funds in the Post-Employment Benefits Trust Account.

(e) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized to take any and all actions necessary to establish and administer the Post-Employment Benefits Trust Account in compliance with applicable federal tax laws or other legal requirements.

(f) The board of retirement, or the board of retirement acting jointly with a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, and a participating employer in the Post-Employment Benefits Trust Account shall establish, by written agreement, the respective roles and responsibilities of the retirement system and the participating employer with respect to the administration and investment of the Post-Employment Benefits Trust Account, consistent with Section 17 of Article XVI of the California Constitution. That agreement shall include, but is not limited to, funding, distribution, expenditure, actuarial, accounting, and reporting considerations, and any applicable investment parameters. The board may, in its discretion, authorize an employer to transfer assets into or out of the Post-Employment Retirement Account, however, any transfer of assets shall comply with the terms of the contract between the employer and the board, satisfy requirements under applicable rules of the Governmental Accounting Standards Board, and satisfy the requirements of federal tax law. Once the investment parameters are established, the board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole control over the investment activity of the Post-Employment Benefits Trust Account as described in subdivision (b). Upon agreement and authorization of the board of retirement and the governing body of a participating employer, the retirement system may administer a post-employment health, life, welfare, or other supplemental benefit plan sponsored by the participating employer and funded through the Post-Employment Benefits Trust Account.

(g) In accordance with procedures established in the written agreement described in subdivision (f), the participating employer may elect to terminate participation in the Post-Employment Benefits Trust and instruct the retirement system to either (1) transfer the funds

held in the Post-Employment Benefits Trust Account to a successor trustee named by the employer, or (2) disburse the trust assets in accordance with subdivision (i). In addition, the board of retirement may terminate the participation of a participating employer in the Post-Employment Benefits Trust Account if either:

(1) The board of retirement finds that the participating employer is unable to satisfy the terms and conditions required by this article, the rules and procedures established by the board, or the participation agreement between the participating employer and the board of retirement.

(2) The board of retirement elects to terminate the Post-Employment Benefits Trust Account.

(h) If the board of retirement terminates the participation of an employer in the Post-Employment Benefits Trust Account, as described in paragraph (1) or (2) of subdivision (g), the funds attributable to that employer shall remain in the Post-Employment Benefits Trust Account, for the continued payment of post-employment benefits for current and future participants and the costs of administration and investment.

(i) If the board of retirement elects to terminate the Post-Employment Benefits Trust Account, the retirement system shall disburse the funds in Post-Employment Benefits Trust Account in the following order and manner:

(1) The retirement system shall retain an amount sufficient to pay for the post-employment benefits for participants in the post-employment benefits plan or plans provided by the former participating employer.

(2) The retirement system shall retain an amount sufficient to pay reasonable administrative and investment costs described in this section.

(3) After the amounts in paragraphs (1) and (2) have been retained or disbursed, the retirement system shall pay any remaining funds to the former participating employer or employers.

(Added by Stats. 2006, Ch. 846 (AB 2863), Sec. 6, Effective September 30, 2006)
(Amended by Stats. 2007, Ch. 327 (AB 1124), Sec. 5)

§31694.2. Responsibilities of employer participating in account

An employer who elects to participate in the Post-Employment Benefits Trust Account shall be required to establish, fund, and apply distributions from the Post-Employment Benefits Trust Account, and administer a post-employment health, life, welfare, or other supplemental benefit plan or plans funded through the Post-Employment Benefits Trust Account, pursuant to applicable federal tax requirements or other legal provisions. An employer may expressly delegate its responsibilities under this section to the retirement system as described in subdivision (f) of Section 31694.1, to the extent allowed by federal tax laws.

(Added by Stats. 2006, Ch. 846 (AB 2863), Sec. 6, Effective September 30, 2006)
(Amended by Stats. 2007, Ch. 327 (AB 1124), Sec. 6)

§31694.3. County or district may establish its own trust for funding post-employment benefits

(a) The board of supervisors of a county, or the governing body of a district, may establish, by resolution or ordinance, its own trust for the sole purpose of funding any post-employment benefits provided under a group health, life, or other welfare benefits plan or plans established and maintained by that county or district.

(b) The board of retirement and, if applicable, the board of investments, may, with the agreement of the county or district, act as one or more of the following for that employer-

established trust: trustee, third-party administrator, or investment manager. The board of retirement and, if applicable, the board of investments, may enter a trust agreement, third-party administrative services agreement, investment manager agreement, or other appropriate agreement with the county or district, which shall establish the respective roles and responsibilities of the parties with respect to the administration and investment of the employer-established trust. That agreement shall provide for the manner and method of payment for the reasonable costs related to investment expenses for, and administration of, the employer-established trust. Those expenses shall not be deemed to be an investment or administrative expense of a retirement system under this chapter.

(c) The county or district may contract with an entity other than the board of retirement or board of investments to act as trustee, third-party administrator, or investment manager for the trust.

(d) Contributions to the employer-established trust may include the proceeds of debt issued by the county or district solely for the purpose of funding post-employment health, life, or other welfare benefits.

(Added by Stats. 2006, Ch. 846 (AB 2863), Sec. 6, Effective September 30, 2006)

§31694.4. Application of article

This article shall not apply to a county, district, or other public entity in a county of the first class as defined by Section 28020 until the provisions of this article are funded pursuant to the provisions of a ratified collective bargaining agreement by that county, district, or other public entity.

(Added by Stats. 2006, Ch. 846 (AB 2863), Sec. 6, Effective September 30, 2006)

§31694.5. Effect of contract between public employer and board upon obligations of parties to provide benefits

A contract entered into between a public employer and a board of retirement or board of investments as described in Section 31694.1 shall not change the obligations of a public employer, board of retirement, or board of investments that are created under other contracts, laws, ordinances, regulations, or similar actions to provide benefits for employees or retired employees of a participating county, district, or other public entity, or their qualified spouses, dependents, and beneficiaries.

(Added by Stats. 2006 Ch. 846 (AB 2863), Sec. 6, Effective September 30, 2006)

§31694.6. Establishment of Post-Employment Benefits Trust Account as part of retirement fund; purpose; compliance with federal and state income tax laws

(a) Notwithstanding any provision to the contrary in this article, if the Post-Employment Benefits Trust Account established under Section 31694 is established as a part of the retirement fund, then that account shall be established for the sole purpose of providing health benefits for retired members, their spouses, and dependents, and shall comply with all requirements, including the limitations on contributions, of Section 401(h) of Title 26 of the United States Code, as applicable.

(b) The board of supervisors or the board of retirement shall take any actions necessary or appropriate to ensure that the program provided by this section complies with all applicable federal and state income tax laws, including, but not limited to, establishing rules and procedures for establishing and maintaining an account under Section 401(h) of Title 26 of the United States Code.

(c) If the Post-Employment Benefits Trust Account is established under Section 31694,

assets shall not be transferred or otherwise paid from the funds held by the retirement system for retirement benefits to a medical benefits account. Assets shall not be transferred or otherwise paid from a medical benefits account to the funds held by the retirement system for retirement benefits.

(Added by Stats. 2014, Ch. 740 (AB 2473), Sec. 13)

Article 8.7

Extension of Safety Member Provisions

(Article 8.7 added by Stats. 1957, Ch. 568, Sec. 1)

§31695.1. Applicability of chapter to certain counties; approval by board

Any provisions of this chapter to the contrary notwithstanding, the board of supervisors in any county not subject to the provisions of Section 31676.1 may, by majority vote, provide that all the provisions of this chapter relating to safety members, which apply to counties coming under the provisions of Sections 31676.1 prior to January 1, 1953, shall apply in such county to all employees of such county whose principal duties consist of active law enforcement or active fire suppression as defined in Section 31470.2 or 31470.4, and the board in such county shall in its regulations provide for the time of election and terms of office of additional members of the board.

(Added by Stats. 1957, Ch. 568, Sec. 1)

§31695.2. Election by employees; filing notice

All eligible employees may elect to be included within the safety member provisions of this chapter by written notice filed with the board not later than 60 days from and after the effective date of the approval of the board of supervisors of the provisions of this article, or within 60 days from and after the effective date of a selection of benefits by the board of supervisors under Section 31808.6, whichever is later.

(Amended by Stats. 1969, Ch. 767, Sec. 1)

§31695.3. Effect of approval by board

From and after the effective date of the approval of the board of supervisors under Section 31695.1, all of the provisions of this chapter relating to safety members which apply to counties coming under the provisions of Section 31676.1, prior to January 1, 1953, except as provided in Section 31695.2, shall apply in such county.

(Added by Stats. 1957, Ch. 568, Sec. 1)

Article 8.8

Long-Term Care Group Insurance

(Article 8.8 added by Stats. 1997, Ch. 491 (SB 1020), Sec. 2)

§31696.1. Program offered by board of retirement; persons who may be covered; enrollment; award of contracts; coverage; eligibility criteria

(a) The board of retirement may provide a long-term care insurance program for retired members and their spouses, their parents, and their spouses' parents.

(b) Subject to Section 31696.5, the board may permit active members and their spouses,

their parents, and their spouses' parents to enroll in the long-term care insurance program.

(c) The long-term care insurance plan shall be made available periodically during open enrollment periods determined by the board.

(d) The board shall award contracts to carriers who are qualified to provide long-term care benefits.

(e) The long-term care insurance plan shall include home, community, and institutional care and shall provide substantially equivalent coverage to that required under Chapter 2.6 (commencing with Section 10230) of Part 2 of Division 2 of the Insurance Code and shall meet those requirements set forth in the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 [commencing with Section 1340] of Division 2 of the Health and Safety Code).

However, the Department of Managed Health Care shall have no jurisdiction over the insurance plan authorized by this article.

(f) Notwithstanding subdivision (a), no person shall be enrolled unless he or she meets the eligibility and underwriting criteria approved by the board.

(g) The board shall approve eligibility criteria for enrollment, approve appropriate underwriting criteria for potential enrollees, approve the scope of covered benefits, approve the criteria to receive benefits, and approve any other standards as needed.

(Added by Stats. 1997, Ch. 491 (SB 1020), Sec. 2)

(Amended by Stats. 1999, Ch. 525 (AB 78), Sec. 17)

(Amended by Stats. 2000, Ch. 857 (AB 2903), Sec. 15)

§31696.2. Payment of cost by enrollees; separation from retirement or health benefits programs administered by system

(a) The full cost of enrollment in a long-term care insurance plan shall be paid by the enrollees.

(b) The long-term care insurance plan shall not become part of, or subject to, the retirement or health benefits programs administered by the system.

(Added by Stats. 1997, Ch. 491 (SB 1020), Sec. 2)

§31696.3. Long-Term Care Fund; administration and investment; disposition of income

(a) The board shall establish a trust fund designated as the Long-Term Care Fund for the purpose of the payment of the costs and administration of the long-term care plan. The Long-Term Care Fund shall be held for the exclusive benefit of enrollees and the payment of the costs and administration of the program.

(b) The board shall have exclusive control of the administration and investment of the Long-Term Care Fund, except that in a county having a board of investments, the board of investments shall have exclusive control of the investment of the fund. Funds in the Long-Term Care Fund shall be invested pursuant to the law governing the investment of the retirement fund.

(c) Income, of whatever nature, earned on the Long-Term Care Fund shall be credited to the fund.

(d) If the Long-Term Care Fund is intended to be a part of the retirement system trust fund, then the operation of the Long-Term Care Fund, including, but not limited to, its funding, governance, investment of assets, allocation of income, and payment of benefits, shall comply with the requirements of Section 401(h) of Title 26 of the United States Code, to the extent required by that title and related federal regulations. If the Long-Term Care Fund is intended to be separate from and not a part of the retirement system, then no assets attributable to that fund shall be commingled for investment or any other purpose, with the assets of the retirement system and shall constitute a separate fund with a trust that is separate from the funds and trust of the retirement system to the extent commingling of assets for investment

purposes satisfies the requirements of the federal tax laws. The board shall indicate, as a part of establishment of the Long-Term Care Fund, whether the separate fund is intended to be a part of, or separate from, the retirement system.

(Added by Stats. 1997, Ch. 491 (SB 1020), Sec. 2)

(Amended by Stats. 2014, Ch. 740 (AB 2473), Sec. 14)

§31696.4. Recovery of administrative costs

The Board is authorized to recover the administrative costs of the long-term care insurance program from insurance carriers and premiums paid by enrollees.

(Added by Stats. 1997, Ch. 491 (SB 1020), Sec. 2)

§31696.5. Application of subdivision (b) of Section 31696.1.

Subdivision (b) of Section 31696.1 shall not be operative in any county until the board of supervisors shall, by resolution adopted by a majority vote, make that subdivision applicable in the county.

(Added by Stats. 1997, Ch. 491 (SB 1020), Sec. 2)

Article 8.9

Vision Care

(Article 8.9 added by Stats. 2007, Ch. 331 (AB 1288), Sec. 2)

§31698. Citation of article

This article shall be known and may be cited as the County Retirement System Vision Care Program.

(Added by Stats. 2007, Ch. 331 (AB 1288), Sec. 2)

§31698.1. Retired members; Enrollment

A member who retires from a county retirement system covered by this chapter may enroll in a vision care program offered pursuant to this article subject to meeting the eligibility requirements established for the program.

(Added by Stats. 2007, Ch. 331 (AB 1288), Sec. 2)

§31698.2. Payment of premiums

Each retired member that elects to participate in the program shall be solely responsible for the payment of premiums.

(Added by Stats. 2007, Ch. 331 (AB 1288), Sec. 2)

§31698.3. Benefits in addition to any other benefits under chapter

The benefits in this article are in addition to any other benefits provided in this chapter.

(Added by Stats. 2007, Ch. 331 (AB 1288), Sec. 2)

§31698.4. Contract with a third-party administrator regarding vision care to retired member, survivors, and eligible dependents

The sponsor of the vision care program may contract with a third-party administrator to provide vision care to the retired member, his or her survivors, and his or her eligible dependents.

(Added by Stats. 2007, Ch. 331 (AB 1288), Sec. 2)

§31698.5. Vision care program intended as part of retirement system trust fund; compliance with federal law

If the vision care program is intended to be part of the retirement system trust fund, then the operation of the vision care program, including, but not limited to, its funding, governance, investment of assets, allocation of income, and payment of benefits, shall comply with the requirements of Section 401(h) of Title 26 of the United States Code, to the extent required by that title, and related federal regulations. If the vision care program is intended to be separate from and not a part of the retirement system, then no assets attributable to that program shall be commingled for investment, or any other purpose, with the assets of the retirement system. Assets attributable to the program shall constitute a separate fund with a trust that is separate from the funds and trust of the retirement system except to the extent that the commingling of assets for investment purposes satisfies the requirements of the federal tax laws. The sponsor of the vision care program shall indicate as part of the establishment of the program whether that separate fund is intended to be a part of, or separate from, the retirement system.

(Added by Stats. 2014, Ch. 740 (AB 2473), Sec. 15)

Article 8.10

Postemployment Health Benefits: San Bernardino County Alternative Fund

(Article 8.10 added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.1. Applicability (San Bernardino)

This article shall apply to a board of retirement established in a county of the seventh class.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.2. Definitions (San Bernardino)

Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board members" means the retirement system board and the individual members of that board or the individual members of a postemployment health benefits fund board, as applicable.

(b) "Employee," except as used in subdivision (g), means a former or retired employee of a local public agency and his or her spouse and dependents who are eligible for retiree health benefits provided by that public agency.

(c) "Postemployment health benefits fund" means the fund established by the retirement system board as a legal entity separate from the retirement system that is used for the collective investment of assets held solely for providing health benefits to employees of a local public agency.

(d) "Postemployment health benefits fund board" means the governing board of the postemployment health benefits fund.

(e) "Public agency" means any local public agency, as defined in Section 53630.

(f) "Retirement system board" means the governing board of the retirement system.

(g) "Staff" means the officers and employees of the retirement system or of the postemployment health benefits fund, as applicable.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.3. Purpose (San Bernardino)

The purpose of this article is to allow the retirement system board to establish a postemployment health benefits fund for public agencies that would enable the agencies to do

all of the following:

(a) Combine for investment the assets that the agencies set aside to provide for retiree health benefits.

(b) Take advantage of economies of scale.

(c) Use existing investment expertise to reduce the cost of funding for retiree health benefits and increase the security of public retirees and their dependents in those benefits.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.4. Authority to establish postemployment health benefits fund for collective investment of assets (San Bernardino)

(a)(1) The retirement system board may establish, by resolution, a postemployment health benefits fund for the collective investment of assets held in trust solely for the exclusive benefit of providing health benefits to employees of any local public agency.

(2) The postemployment health benefits fund board shall be composed of the same members that compose the retirement system board. The postemployment health benefits fund board shall have the sole and exclusive responsibility and discretion for administration of the postemployment health benefits fund. However, the retirement system board may terminate the fund in its discretion at any time.

(b) The postemployment health benefits fund shall be established and administered to comply with the requirements of Governmental Accounting Standards Board Statements No. 43 and No. 45 (GASB 43 and 45) for assets held by the postemployment health benefits fund to be treated as plan assets, to the extent reasonably practicable.

(c) The assets in the postemployment health benefits fund shall be irrevocably held for the exclusive purposes of providing health benefits to employees of the participating public agencies, and to defray the reasonable expenses of administering the fund. The postemployment health benefits fund board may require that all assets transferred to it on behalf of a participating public agency be transferred from a trust fund that meets the requirements of GASB 43 and 45 for assets to be treated as plan assets, including that the assets of the trust fund be held for the exclusive purpose of providing health benefits to employees of a local public agency.

(d) The retirement system board shall determine, at its sole discretion, the form of the postemployment health benefits fund, which may be one or more trusts that are established under Section 115 of the Internal Revenue Code or any other form or forms chosen. The retirement system board may take any and all actions necessary or appropriate to implement the postemployment health benefits fund, including, but not limited to, establishing one or more joint powers authorities, partnerships, common trust funds, or other mechanisms in order to combine or commingle the assets held by the fund for investment purposes.

(e) A public agency, or the trustees of a trust fund that has transferred assets to the postemployment health benefits fund, may, in accordance with rules established by the postemployment health benefits fund board, direct that all or part of the assets allocated to the account of that agency or trust be transferred to another fund that is maintained by the agency that holds those assets solely for the exclusive purpose of providing health benefits to employees of the agency. Upon termination of the postemployment health benefits fund by the retirement system board, the postemployment health benefits fund board shall retain an amount sufficient to pay reasonable costs and expenses of operating and terminating the postemployment health benefits fund, and thereafter shall transfer any remaining assets allocated to the account of each participating public agency only to another fund maintained by the agency that holds those assets solely for the exclusive purpose of providing health benefits to employees of the agency. If a participating agency does not maintain a fund for that exclusive purpose, the postemployment health benefits fund board shall transfer the assets allocated to the public agency's account to a trust account maintained by a bank for the exclusive purpose of providing health benefits to employees of the agency. The bank shall

have net assets of at least five hundred million dollars ($500,000,000). The postemployment health benefits fund board shall be reimbursed from the assets of the postemployment health benefits fund allocated to the public agency for all direct and indirect costs of establishing and transferring fund assets to a bank trust account.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.5. Fiduciary standards (San Bernardino)

The investment of the assets in the postemployment health benefits fund shall be subject to the fiduciary standards governing investments under Section 17 of Article XVI of the California Constitution, as those standards apply to the management of investments of the retirement system governed by the board, notwithstanding that assets in the postemployment health benefits fund will be used to provide retiree health benefits and not retirement allowances. Each public agency and trust fund, and each governing body and member thereof, that participates in the postemployment health benefits fund shall be conclusively determined to have accepted and approved the applicability of the investment standards set forth in this article.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.6. Investment authority; delegation of authority; investment pools (San Bernardino)

(a) The postemployment health benefits fund board shall determine the investments of the postemployment health benefits fund and may delegate this function to the extent consistent with its fiduciary responsibilities, including delegating this function to the retirement system board.

(b) The postemployment health benefits fund board may offer different investment pools to be chosen by the public agencies and their trust funds that participate in the postemployment health benefits fund.

(c) To the extent allowed by California law and federal law, including, but not limited to, federal tax and securities law, the postemployment health benefits fund board may invest the assets that it holds, and the retirement system board may invest the assets that it holds, in investment pools established under this article, and each of those boards may combine or commingle, for investment purposes only, the assets that it holds with the assets held by the other board. The postemployment health benefits fund board and the retirement system board may take any and all actions necessary or appropriate to implement that combination or commingling, including, but not limited to, unitizing the investments held for retirement purposes.

(d) The retirement system board may invest the assets that it holds for retirement purposes, and the postemployment health benefits fund board may invest the assets held in the postemployment health benefits fund in the same or similar investments by parallel investing rather than commingling the assets for investment.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.7. Terms and conditions for participating public agencies; separate accounting; authority over governance of fund (San Bernardino)

(a) The postemployment health benefits fund board shall establish the terms and conditions for a public agency and its trust fund to participate in the postemployment health benefits fund, including, but not limited to, eligibility to participate, amount of assets transferred to the fund, investments, withdrawal, transfer of assets to or from the fund, termination of participation, and reporting to the public agency.

(b) The postemployment health benefits fund board shall account separately for each public agency and its trust fund with respect to contributions, withdrawals, earnings, losses, fees paid to third-party vendors, expenses, and all other relevant items. Any expenses charged

to the postemployment health benefits fund by the retirement system shall be reported at least monthly by the postemployment health benefits board in its public records and shall be reported at least annually to each agency or trust that participates in the postemployment health benefits fund. The portion of the postemployment health benefits fund that is attributable to each public agency and its trust fund after the accounting, including each agency's and trust fund's allocated share of expenses as provided in this section, shall be used only for the exclusive benefit of the employees of that agency.

(c) The postemployment health benefits fund board shall, by resolution, establish all rules, regulations, or bylaws for the administration of the postemployment health benefits fund, including any revision that it deems appropriate, and shall have sole discretion to interpret those rules, regulations, or bylaws.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.8. Limitation of liability; obligations not changed or created; status as separate legal entity (San Bernardino)

(a) The sole function of the postemployment health benefits fund shall be to invest assets of participating public agencies and their trust funds that are held for the exclusive benefit of agency employees. The postemployment health benefits fund shall not have any liability for benefits that are provided by any agency or trust that transfers assets to the postemployment health benefits fund for investment. Additionally, the retirement system shall not have any liability for those benefits.

(b) The transfer of assets to or from the postemployment health benefits fund, and the investment of assets by that fund, shall not change the obligation of any agency for retiree health benefits, shall not create any obligations on the part of the retirement systems for retiree health benefits, and shall not create any obligation on the part of a postemployment health benefits fund for any pension or annuity benefits.

(c) The retirement system and the postemployment health benefits fund are separate legal entities, and they and their boards, board members, and staffs, are liable only for their own actions or failures to act. Any liability shall be determined in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1. Any of those claims or causes of action shall accrue in accordance with Division 3.6 (commencing with Section 810) of Title 1.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.9. Expenses of administration (San Bernardino)

(a) Expenses of administration of this article shall be allocated by the retirement system board, in its discretion and on a reasonable basis, among the postemployment health benefits fund, the retirement system, and the accounts of the public agencies and trust funds that participate in the postemployment health benefits fund.

(b) The establishment of the postemployment health benefits fund will enable the sharing of expenses of administration and investment, bringing economies of scale and better use of investment expertise to the retirement system. Consequently, the retirement system board may pay the startup and initial administrative expenses for the fund if the retirement system board determines that this expenditure is in the long-term best interests of the members and beneficiaries of the retirement system, and the employers that participate in that system. The board may also assess participating agencies and trusts for all or a portion of those expenses.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

§31699.10. Separate governance from retirement system; power and authority, fiduciary insurance (San Bernardino)

The postemployment health benefits fund board shall act as a separate governing board of the postemployment health benefits fund, with separate rules, regulations, and bylaws, and shall meet separately from the meetings of the retirement system. The postemployment health benefits fund board shall have all of the power, authority, and ability to act on behalf of the postemployment health benefits fund that the retirement system board has with respect to the retirement system, including, but not limited to, the power to obtain fiduciary insurance.

(Added by Stats. 2009, Ch. 326 (SB 11), Sec. 1)

Article 8.11

Dental Care

(Article 8.11 added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.20. Short title

This article shall be known and may be cited as the County Retirement System Dental Care Program.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.21. Enrollment in dental care program

A retired member of a county retirement system covered by this chapter may enroll in a dental care program offered pursuant to this article, subject to meeting the eligibility requirements established for the program.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.22. Payment of premiums

A retired member who elects to participate in the program shall be solely responsible for the payment of premiums.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.23. Dental benefits

The benefits in this article are in addition to any other benefits provided in this chapter.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.24. Contracts to provide

The board of retirement may contract with a third-party administrator to provide dental care to the retired member, his or her survivors, and his or her eligible dependents.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.25. Revision or discontinuation of dental benefits

The provision of dental benefits in accordance with this article may be revised or discontinued at any time.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

Article 9

Deferred Retirement

(Article 9 added by Stats. 1947, Ch. 424, Sec. 1)

§31700. Election of member leaving service to leave contributions in fund; deferred retirement; allowances; date when payable; interest

(a) Any member, whether over or under the minimum age of voluntary service retirement, who leaves county service after completing five years of service or who leaves county service and within 90 days, or six months if Section 31840.4 applies, becomes a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, may elect in writing, within 90 days after establishing eligibility for reciprocity, to leave his or her accumulated contributions in the retirement fund and be granted a deferred retirement allowance to become effective either:

(1) Upon the option of the member, at any time at which he or she could have retired had he or she remained in county service in a full-time position.

(2) Not later than the first day of the month following that in which he or she attains the applicable compulsory retirement age, if any.

(b) Any member who is eligible to be granted a deferred retirement allowance under subdivision (a) because he or she has completed five years of service but who fails to so elect, shall be deemed to have elected a deferred retirement.

(c) Any member, regardless of service, whose retirement system coverage ceases but who does not terminate employment shall leave his or her accumulated contributions in the retirement fund, and interest shall continue to be credited pursuant to Section 31591, until the member retires or terminates employment.

(Amended by Stats. 1995, Ch. 457 (AB 847), Sec. 4)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 5)

§31700.5. Deferred retirement to accept appointment by court of record or judge in reciprocal county

Notwithstanding any other provisions of this chapter, any member with more than 10 years service who resigns his position and is granted a deferred retirement under this chapter, to accept an appointment by any court of record or judge thereof in a reciprocal county, shall not be considered as breaking his continuity of service and such member shall be eligible for reinstatement within five years to the position from which he resigned or one in a lower class in the same or related series requiring similar qualifications, knowledges and abilities. The intent provision of Article 15 of this chapter shall apply to this section.

(Added by Stats. 1970, Ch. 821, Sec. 1)

§31701. Withdrawal of accumulated contributions

Any member may elect to rescind in writing his election and withdraw his accumulated contributions pursuant to Section 31628 at any time before the effective date of his retirement except that if within 90 days after discontinuing service under this system, he became a member of the State Employees' Retirement System or a system established in another county under this chapter, he may not rescind or withdraw any of his accumulated contributions while in service as such a member.

(Amended by Stats. 1959, Ch. 1078, Sec. 7)

§31702. Disposal of contributions on death of member

Upon the death of any member before the effective date of his deferred retirement allowance, his accumulated contributions shall be paid to his estate or to such person as he nominates by written designation duly executed and filed with the board.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31703. Deferred retirement allowance

Any member upon the effective date of the member's deferred retirement allowance shall be entitled to receive a retirement allowance as provided in Sections 31662 to 31664.65, inclusive, Section 31673 to 31677, inclusive, or Section 31751, or Section 31808.5, or Section 31808.6, whichever is applicable.

Any member who has elected deferred retirement while subject to Section 31751 shall have a retirement allowance computed in accordance with Sections 31676.11 and 31808 for service which occurred prior to the date Section 31751 was applicable to the member.

(Amended by Stats. 1980, Ch. 58, Sec. 5, Effective April 4, 1980)

§31704. Election for deferred retirement allowance; time for presentation

If any member elects to have his or her deferred retirement allowance calculated in accordance with Section 31762, 31763, 31764, or 31764.5, he or she shall present his or her election in writing to the board at least six months prior to the effective date of his or her deferred retirement allowance.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 2004, Ch. 441 (AB 979), Sec. 3)

§31705. Calculation of benefit

The retirement allowance shall be calculated according to the provisions of this chapter, or the California Public Employees' Pension Reform Act of 2013, whichever is applicable, as they exist at the time of the commencement of the retirement allowance.

(Added by Stats. 1947, Ch. 388, Sec. 19)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 43)

§31706. Failure to apply for deferred retirement; member who has left county service, has elected to leave contributions in fund and who has attained age 70; deposit of contributions and interest into reserve fund

Any member who has left county service and has elected to leave accumulated contributions in the retirement fund, or who is deemed to have elected a deferred retirement pursuant to subdivision (b) of Section 31700, and who has attained 70 years of age but has not yet applied for a deferred retirement allowance, and who is not a reciprocal member of a retirement system established pursuant to this chapter or the Public Employees' Retirement Law, shall be notified in writing by the treasurer, or other entity authorized by the board, that the member is eligible to apply for, and shall begin receiving, either a deferred retirement allowance by April 1 of the year following the year in which the member attains 72 years of age or a one-time distribution of all accumulated contributions and interest. The notification shall be made at the time the deferred member attains 70 years of age and shall be sent by certified mail to the member's last known address, or to the member's last known employer, as shown by the records of the retirement system. If the member can be located but does not make proper application for a deferred retirement allowance with retirement to be effective by April 1 of the year following the year in which the member attains 72 years of age, the retirement system shall commence paying either an unmodified allowance to the member, if the member was eligible to begin receiving a deferred retirement allowance under the provisions of 31485.22, or

a one-time distribution of all accumulated contributions and interest if the member is otherwise ineligible for a deferred retirement allowance. If the member cannot be located by April 1 of the year following the year in which the member attains 72 years of age, all of the member's accumulated contributions and interest thereon shall be deposited in, and become a part of, the current pension reserve fund of the retirement system. The board may at any time after transfer of proceeds to the reserve fund upon receipt of proper information satisfactory to it, redeposit the proceeds to the credit of the claimant, to be administered in the manner provided under this law. This section shall not apply to a member while the member is actively employed past mandatory retirement age in a retirement system established under the provisions of this chapter or the Public Employees' Retirement Law.

(Added by Stats. 1979, Ch. 265, Sec. 1)
(Amended by Stats. 1995, Ch. 457 (AB 847), Sec. 5)
(Amended by Stats. 1997, Ch. 4 (SB 419), Sec. 2)
(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 49)

Article 10

Disability Retirement

(Article 10 added by Stats. 1947, Ch. 424, Sec. 1)

§31720. Permanent incapacity

Any member permanently incapacitated for the performance of duty shall be retired for disability regardless of age if, and only if:

(a) The member's incapacity is a result of injury or disease arising out of and in the course of the member's employment, and such employment contributes substantially to such incapacity, or

(b) The member has completed five years of service, and

(c) The member has not waived retirement in respect to the particular incapacity or aggravation thereof as provided by Section 31009.

The amendments to this section enacted during the 1979-80 Regular Session of the Legislature shall be applicable to all applicants for disability retirement on or after the effective date of such amendments.

(Amended by Stats. 1980, Ch. 240, Sec. 1)

§31720.1. Permanent incapacity; Contra Costa County (Contra Costa)

Notwithstanding Section 31720, any member covered under Section 31751 who is permanently incapacitated shall be retired for disability regardless of age if, and only if:

(a) The member's incapacity is substantially caused by injury or disease arising out of and in the course of the member's employment, or

(b) The member has completed a total of 10 years of service. "Permanently incapacitated," for the purpose of this section, means that the member is unable permanently to engage in any substantial gainful employment.

(Added by Stats. 1980, Ch. 58, Sec. 6, Effective April 4, 1980)

§31720.3. Request of competent medical opinion; prohibition against use of substitute for disciplinary process

In determining whether a member is eligible to retire for disability, the board shall not consider medical opinion unless it is deemed competent and shall not use disability retirement as a substitute for the employer's disciplinary process.

(Added by Stats. 2008, Ch. 370 (AB 2023), Sec. 4)

§31720.4. Los Angeles County; members incapacitated as a result of active military service; retirement for nonservice-connected disability; benefit to spouse of member who dies as a result of active military service (Los Angeles)

(a) Notwithstanding subdivision (b) of Section 31720, a member who becomes permanently incapacitated for the performance of duty with his or her employing county or district as a direct consequence and result of injury or disease arising out of, and in the course of, active military service while on miliary leave from the county or district, shall be retired for nonservice-connected disability regardless of age or years of service.

(b) Notwithstanding any provision to the contrary in Section 31781.3, the surviving spouse of a member who dies as a direct consequence and result of injury or disease arising out of, and in the course of, active military service while on military leave from his or her employing county or district, shall be entitled to the combined benefit under Section 31781.3 regardless of the member's years of service at the time of death.

(c) For the purposes of this section:

(1) "Active military service" means full-time duty within a branch of the Armed Forces of the United States.

(2) "Military leave" means an authorized leave of absence taken from a member's employing county or district as a result of a member being called to active military service because of his or her position as a reservist or member of the National Guard.

(d) This section shall apply only to the County of Los Angeles and shall not be operative with regard to the county, or a district within the county, until the board of supervisors of the county, or the governing body of the district, elects, by resolution adopted by a majority vote, to make this section operative. The adoption of a resolution making this section operative shall not create a vested right with respect to any member prior to the member's retirement or death. The board of supervisors or the governing body of the district may repeal or amend the resolution at any time, except to the extent that it would affect a member who is retired or is deceased at the time of the repeal or amendment.

(Added by Stats. 2010, Ch. 83 (AB 1739), Sec. 1)

§31720.5. Heart trouble; presumption; conditions

(a) If a safety member, a fireman member, or a member in active law enforcement who has completed five years or more of service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200) or both or under this retirement system or under the State Employees' Retirement System or under a retirement system established under this chapter in another county, and develops heart trouble, that heart trouble developing or manifesting itself in those cases shall be presumed to arise out of and in the course of employment. That heart trouble developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to such development or manifestation.

(b) The presumption described in subdivision (a) is rebuttable by other evidence. Unless so rebutted, the board is bound to find in accordance with the presumption.

(c) As used in this section, "fireman member" includes a member engaged in active fire suppression who is not classified as a safety member.

(d) As used in this section, "member in active law enforcement" includes a member engaged in active law enforcement who is not classified as a safety member.

(Amended by Stats. 2012, Ch. 792 (SB 996), Sec. 2)

(Amended by Stats. 1974, Ch. 9, Sec. 1)

§31720.6. Cancer; presumption that disease arose out of and in the course of employment

(a) If a safety member, a firefighter, or a member in active law enforcement who has completed five years or more of service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200) or both or under this retirement system or under the Public Employees' Retirement System or under a retirement system established under this chapter in another county, and develops cancer, the cancer so developing or manifesting itself in those cases shall be presumed to arise out of and in the course of employment. The cancer so developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to that development or manifestation.

(b) Notwithstanding the existence of nonindustrial predisposing or contributing factors, any safety member, firefighter member, or member active in law enforcement described in subdivision (a) permanently incapacitated for the performance of duty as a result of cancer shall receive a service-connected disability retirement if the member demonstrates that he or she was exposed to a known carcinogen as a result of performance of job duties. "Known carcinogen" for purposes of this section means those carcinogenic agents recognized by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations.

(c) The presumption is disputable and may be controverted by evidence, that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer, provided that the primary site of the cancer has been established. Unless so controverted, the board is bound to find in accordance with the presumption. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(d) "Firefighter," for purposes of this section, includes a member engaged in active fire suppression who is not classified as a safety member.

(e) "Member in active law enforcement," for purposes of this section, includes a member engaged in active law enforcement who is not classified as a safety member.

(Added by Stats. 1999, Ch. 160 (SB 558), Sec. 1)

(Amended by Stats. 2000, Ch.317 (AB 2176), Sec. 2)

§31720.7. Blood-borne infectious disease; presumption that disease arose out of, and in the course of, employment

(a) If a safety member, a firefighter, a county probation officer, or a member in active law enforcement develops a blood-borne infectious disease or a methicillin-resistant Staphylococcus aureus skin infection, the disease or skin infection so developing or manifesting itself in those cases shall be presumed to arise out of, and in the course of, employment. The blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection so developing or manifesting itself in those cases shall in no case be attributed to any disease or skin infection existing prior to that development or manifestation.

(b) Any safety member, firefighter, county probation officer, or member active in law enforcement described in subdivision (a) permanently incapacitated for the performance of duty as a result of a blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection shall receive a service-connected disability retirement.

(c)(1) The presumption described in subdivision (a) is rebuttable by other evidence. Unless so rebutted, the board is bound to find in accordance with the presumption.

(2) The blood-borne infectious disease presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last

date actually worked in the specified capacity.

(3) Notwithstanding paragraph (2), the methicillin-resistant Staphylococcus aureus skin infection presumption shall be extended to a member following termination of service for a period of 90 days commencing with the last day actually worked in the specified capacity.

(d) "Blood-borne infectious disease," for purposes of this section, means a disease caused by exposure to pathogenic microorganisms that are present in human blood that can cause disease in humans, including, but not limited to, those pathogenic microorganisms defined as blood-borne pathogens by the Department of Industrial Relations.

(e) "Member in active law enforcement," for purposes of this section, means members employed by a sheriff's office, by a police or fire department of a city, county, city and county, district, or by another public or municipal corporation or political subdivision or who are described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or who are employed by any county forestry or firefighting department or unit, except any of those members whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement services or active firefighting services, such as stenographers, telephone operators, and other office workers, and includes a member engaged in active law enforcement who is not classified as a safety member.

(Added by Stats. 2000, Ch. 138 (AB 1817), Sec. 1)

(Amended by Stats. 2001, Ch. 833 (AB 196), Sec. 1)

(Amended by Stats. 2008, Ch. 684 (AB 2754), Sec. 1)

§31720.9. Exposure to biochemical substances; rebuttable presumption that death or illness arose out of, and in course of, employment; definitions

(a) If a peace officer member, as defined in Sections 830.1 to 830.5, inclusive, of the Penal Code, or firefighter member, with service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200), or both, or under this retirement system, under the Public Employees' Retirement System, or under a retirement system established under this chapter in another county, becomes ill or dies due to exposure to a biochemical substance, the illness that develops or manifests itself in those cases shall be presumed to arise out of, and in the course of, employment. The illness that develops or manifests itself in those cases shall in no case be attributed to any illness existing prior to that development or manifestation.

(b) Any peace officer member or firefighter member, as described in subdivision (a), who becomes permanently incapacitated as a result of exposure to a biochemical substance shall receive a service-connected disability retirement.

(c) The presumption described in subdivision (a) is rebuttable by other evidence. Unless rebutted, the board is bound to find in accordance with the presumption. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(d) For purposes of this section, a peace officer member or firefighter member, as described in subdivision (a), does not include a member whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement services or active firefighting services, such as stenographers, telephone operators, and other office workers.

(e) "Biochemical substance" means any biological or chemical agent that may be used as a weapon of mass destruction, including, but not limited to, any chemical warfare agent, weaponized biological agent, or nuclear or radiological agent, as these terms are defined in Section 11417 of the Penal Code.

(Added by Stats. 2002, Ch. 870 (AB 1847), Sec. 1)

§31721. Persons entitled to make application; transfer of appeals to retirement board

(a) A member may be retired for disability upon the application of the member, the head of the office or department in which he is or was last employed, the board or its agents, or any other person on his behalf, except that an employer may not separate because of disability a member otherwise eligible to retire for disability but shall apply for disability retirement of any eligible member believed to be disabled, unless the member waives the right to retire for disability and elects to withdraw contributions or to permit contributions to remain in the fund with rights to service retirement as provided in Article 9 (commencing with Section 31700).

(b) When a member appeals from a separation for disability, disputing the employer's assertion or assumption that he is not eligible for disability retirement, the official, entity other than the board, or court to whom appealed shall transfer the proceedings to the board for determination of the eligibility and of disability if so eligible.

The appointing authority shall have the burden of proving disability. Thereafter, the appellant shall have the burden of proving job causation.

This subdivision shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions applicable in that county.

(Amended by Stats. 1981, Ch. 1158, Sec. 1)

§31722. Time for application

The application shall be made while the member is in service, within four months after his or her discontinuance of service, within four months after the expiration of any period during which a presumption is extended beyond his or her discontinuance of service, or while, from the date of discontinuance of service to the time of the application, he or she is continuously physically or mentally incapacitated to perform his or her duties.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 2000, Ch. 317 (AB 2176), Sec. 3)

§31723. Necessity of proof; medical examination

The board may require such proof, including a medical examination at the expense of the member, as it deems necessary or the board upon its own motion may order a medical examination to determine the existence of the disability.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31724. Action of board on proof of incapacity; time allowances become effective

If the proof received, including any medical examination, shows to the satisfaction of the board that the member is permanently incapacitated physically or mentally for the performance of his duties in the service, it shall retire him effective on the expiration date of any leave of absence with compensation to which he shall become entitled under the provisions of Division 4 (commencing with Section 3201) of the Labor Code or effective on the occasion of the member's consent to retirement prior to the expiration of such leave of absence with compensation. His disability retirement allowance shall be effective as of the date such application is filed with the board, but not earlier than the day following the last day for which he received regular compensation. Notwithstanding any other provision of this article, the retirement of a member who has been granted or is entitled to sick leave shall not become effective until the expiration of such sick leave with compensation unless the member consents to his retirement at an earlier date.

When it has been demonstrated to the satisfaction of the board that the filing of the member's application was delayed by administrative oversight or by inability to ascertain the permanency of the member's incapacity until after the date following the day for which

the member last received regular compensation, such date will be deemed to be the date the application was filed.

(Amended by Stats. 1974, Ch. 9, Sec. 2)

§31725. Determination of incapacity; notice of denial; judicial review or intervention by employer; reinstatement of dismissed employee

Permanent incapacity for the performance of duty shall in all cases be determined by the board.

If the medical examination and other available information do not show to the satisfaction of the board that the member is incapacitated physically or mentally for the performance of his duties in the service and the member's application is denied on this ground the board shall give notice of such denial to the employer. The employer may obtain judicial review of such action of the board by filing a petition for writ of mandate in accordance with the Code of Civil Procedure or by joining or intervening in such action filed by the member within 30 days of the mailing of such notice. If such petition is not filed or the court enters judgment denying the writ, whether on the petition of the employer or the member, and the employer has dismissed the member for disability the employer shall reinstate the member to his employment effective as of the day following the effective date of the dismissal.

(Amended by Stats. 1970, Ch. 1016, Sec. 1)

§31725.5. Change of position in lieu of disability retirement allowance members eligible to retire for nonservice-connected disability

If the board finds, on medical advice, that a member in county employment, although incapacitated for the performance of his duties, is capable of performing other duties in the service of the county, the member shall not be entitled to a disability retirement allowance if any competent authority in accordance with any applicable civil service or merit system procedures offers and he accepts a transfer, reassignment, or other change to a position with duties within his capacity to perform with his disability. If this new position returns to the member compensation less than that of the position from which he was disabled, the board, in lieu of a disability retirement allowance, shall pay him the difference in such compensation until the compensation of the new position equals or exceeds the compensation (including later changes) of the former position, but such amount shall not exceed the amount to which he would otherwise be entitled as a disability retirement allowance. Such payments in lieu of disability retirement allowance shall be considered as a charge against county advance reserve for current service.

If a new position cannot be arranged at the time of eligibility for disability retirement allowance, such disability retirement allowance to which the member is entitled under this article shall be paid until such time as a new position is available and accepted.

If a disability retirement allowance is paid and the member later accepts such a new position, the period while on disability retirement shall not be considered as breaking the continuity of service and his rate of contributions shall be based on the same age as it was at the date of disability. The member's accumulated contributions shall be the same as at the date his disability retirement began less the amount charged to his accumulated normal contributions.

Nothing in this section shall be construed to require a member to accept reassignment or transfer in lieu of a disability retirement allowance.

The provisions of this section become effective in any county only when the board of supervisors adopts an ordinance providing for their implementation by the board of retirement which may include application to persons retired for disability before such effective date.

The provisions of this section shall only apply to members eligible to retire for nonservice-connected disability.

(Amended by Stats. 1980, Ch. 720, Sec. 5)

§31725.6. Member rehabilitation program; vocational evaluation; plan; disability retirement allowance and supplemental allowance

(a) When the board finds, based on medical advice, that a member in county service is incapacitated for the performance of the member's duties, the board shall determine, based upon that medical advice, whether the member is capable of performing other duties. If the board determines that a member, although incapacitated for the performance of the member's duties, is capable of performing other duties, the board shall inform the appropriate agency in county service of its findings and request that the agency immediately initiate a suitable rehabilitation program for the member pursuant to Section 139.5 of the Labor Code, whereby the member could become qualified for assignment to a position in county service consistent with the rehabilitation program.

(b) When the appropriate agency in county service receives such a request from the board, the agency shall immediately refer the member to a qualified rehabilitation representative for vocational evaluation. During the course of the evaluation, the rehabilitation representative shall consult with the appropriate agency in county service to determine what position, if any, in county service would be compatible with the member's aptitudes, interests, and abilities and whether rehabilitation services will enable the member to become qualified to perform the duties of the position.

(c) Upon completion of the vocational evaluation of the member, the rehabilitation representative shall develop a suitable rehabilitation plan and submit the plan for concurrence by the member and the appropriate agency in county service and, thereafter, the agency shall forward the plan to the Division of Industrial Accidents for approval pursuant to Section 139.5 of the Labor Code.

(d) Upon receipt of approval of the rehabilitation plan, the appropriate agency in county service shall notify the board that the agency is either proceeding to implement an approved rehabilitation plan that will qualify the member for a position in county service specified in the plan or is unable to provide a position in county service compatible with the approved rehabilitation plan.

(e) Upon commencement of service by the member in the position specified in the approved rehabilitation plan, the member shall not be paid the disability retirement allowance to which the member would otherwise be entitled during the entire period that the member remains in county service. However, if the compensation rate of the position specified in the approved rehabilitation plan is less than the compensation rate of the position for which the member was incapacitated, the board shall, in lieu of the disability retirement allowance, pay to the member a supplemental disability allowance in an amount equal to the difference between the compensation rate of the position for which the member was incapacitated, applicable on the date of the commencement of service by the member in the position specified in the approved rehabilitation plan, and the compensation rate of the position specified in the plan, applicable on the same date. The supplemental disability allowance shall be adjusted annually to equal the difference between the current compensation rate of the position for which the member was incapacitated and the current compensation of the position specified in the approved rehabilitation plan. The supplemental disability allowance payments shall commence upon suspension of the disability retirement allowance and the amount of the payments shall not be greater than the disability retirement allowance to which the member would otherwise be entitled. Supplemental disability allowance payments made pursuant to this section shall be considered as a charge against the county advance reserve for current service, and all of these payments received by a member shall be considered as a part of the member's compensation within the meaning of Section 31460.

(f) From the time that the member is eligible to receive a disability retirement allowance until the appropriate agency is able to provide the position in county service specified in the approved rehabilitation plan, and the member has commenced service in that position, the

disability retirement allowance to which the member is entitled under this article shall be paid. Upon commencement of service by the member in the position specified in the approved rehabilitation plan, the period during which the member was receiving disability retirement payments shall not be considered as breaking the continuity of the member's service, and the rate of the member's contributions shall continue to be based on the same age at entrance into the retirement system as the member's rates were based on prior to the date of the member's disability. The member's accumulated contributions shall not be reduced as a result of the member receiving the disability retirement payments, but shall be increased by the amount of interest that would have accrued had the member not been retired.

(g) Notwithstanding Section 31560, a member whose principal duties while serving in the position for which the member was incapacitated, consisted of activities defined in Section 31469.3 shall, upon commencement of service by the member in the position specified in the approved rehabilitation plan, continue to be considered as satisfying the requirements of Section 31560, notwithstanding the actual duties performed during the entire period that the member remains in county service.

(h) If, within one year from the date that the member has been eligible for a disability retirement allowance, the appropriate agency in county service has offered to the member, in writing, the position specified in the rehabilitation plan which had previously been concurred, in writing, by the member and approved by the Division of Industrial Accidents pursuant to Section 139.5 of the Labor Code, the member shall, within 30 days of receipt of the notice, report for duty at the location specified in the notice. If the member refuses to report for duty within the time specified, the appropriate agency in county service may apply to the board to have the member's allowance discontinued.

The board shall be authorized to discontinue the member's disability retirement allowance if based upon substantial evidence of the refusal of the member to report to work without reasonable cause. However, the board shall not be authorized to impair any other of the rights or retirement benefits to which the member would otherwise be entitled.

(i) This section shall apply only to members who were incapacitated for the performance of the member's duties prior to January 1, 2004, and who are eligible to retire for service-connected disability.

(Amended by Stats. 1992, Ch. 132, Sec. 2)

(Amended by Stats. 2004, Ch. 379 (AB 2982), Sec. 1, Effective August 30, 2004)

§31725.7. Service retirement allowance pending determination of entitlement

(a) Except as provided in subdivision (b), at any time after filing an application for disability retirement with the board, the member may, if eligible, apply for, and the board in its discretion may grant, a service retirement allowance pending the determination of their entitlement to disability retirement. If the member is found to be eligible for disability retirement, appropriate adjustments shall be made in their retirement allowance retroactive to the effective date of their disability retirement as provided in Section 31724.

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

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

not be entitled to return to their job as provided in Section 31725.

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

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

(Added by Stats. 1977, Ch. 25, Sec. 1)
(Amended by Stats. 1996, Ch. 493 (SB 792), Sec. 6)
(Amended by Stats. 1998, Ch. 132 (SB 2137), Sec. 2)
(Amended by Stats. 2022, Ch. 524 (AB 1971), Sec. 4)

§31725.8. Nonservice-connected disability retirement allowance to members applying for rehearing on service-connected disability claims; intervening death of member

If any applicant for service-connected disability retirement is found by the board to be permanently physically or mentally incapacitated for the performance of his duties but not because of injury or disease arising out of and in the course of his employment, he may apply for, and the board in its discretion may grant, a nonservice-connected disability retirement allowance while he is pursuing any rehearing before the board or judicial review concerning his right to service-connected disability retirement. If his disability is finally determined to have been service-connected, appropriate adjustments shall be made in his retirement allowance retroactive to the effective date of his disability retirement.

If any member dies after electing to receive nonservice-connected disability retirement and before the question of his entitlement to service-connected disability retirement is finally resolved, the rights of his beneficiary shall be those selected by the member at the time he elected to receive nonservice-connected disability retirement.

(Added by Stats. 1976, Ch. 1209, Sec. 1)

§31725.65. Reemployment plan for incapacitated members; Application to incapacitation on or after January 1, 2004

(a) When the board finds, based on medical advice, that a member in county service is incapacitated for the performance of the member's duties, the board shall determine, based upon that medical advice, whether the member may be capable of performing other duties. If the board determines that a member, although incapacitated for the performance of the member's duties, is capable of performing other duties, the board shall notify the appropriate agency in county service of its findings.

(b) When the appropriate agency in county service receives that notification from the board, the agency shall immediately inform the member of any vacant county positions that may be suitable for the member, consistent with his or her disability, and shall consult with the

member in an effort to develop a reemployment plan that shall identify what position, if any, in county service would be compatible with the member's aptitudes, interests, and abilities.

(c) Upon approval by the member of the reemployment plan, the appropriate agency in county service shall notify the board that the agency is proceeding to implement the approved reemployment plan.

(d) Upon commencement of service by the member in the position specified in the approved reemployment plan, the member shall not be paid the disability retirement allowance to which the member would otherwise be entitled during the entire period that the member remains in county service.

However, if the compensation rate of the position specified in the approved reemployment plan is less than the compensation rate of the position for which the member was incapacitated, the board shall, in lieu of the disability retirement allowance, pay to the member a supplemental disability allowance in an amount equal to the difference between the compensation rate of the position for which the member was incapacitated, applicable on the date of the commencement of service by the member in the position specified in the approved reemployment plan, and the compensation rate of the position specified in the plan, applicable on the same date. The supplemental disability allowance shall be adjusted annually to equal the difference between the current compensation rate of the position for which the member was incapacitated and the current compensation of the position specified in the approved reemployment plan. The supplemental disability allowance payments shall commence upon suspension of the disability retirement allowance and the amount of the payments shall not be greater than the disability retirement allowance to which the member would otherwise be entitled. Supplemental disability allowance payments made pursuant to this section shall be considered as a charge against the county advance reserve for current service, and all of these payments received by a member shall be considered as a part of the member's compensation within the meaning of Section 31460.

(e) From the time that the member is eligible to receive a disability retirement allowance until the appropriate agency is able to provide the position in county service specified in the approved reemployment plan, and the member has commenced service in that position, the disability retirement allowance to which the member is entitled under this article shall be paid. Upon commencement of service by the member in the position specified in the approved reemployment plan, the period during which the member was receiving disability retirement payments shall not be considered as breaking the continuity of the member's service, and the rate of the member's contributions shall continue to be based on the same age at entrance into the retirement system on which the member's rates were based prior to the date of the member's disability. The member's accumulated contributions shall not be reduced as a result of the member receiving the disability retirement payments, but shall be increased by the amount of interest that would have accrued had the member not been retired.

(f) Notwithstanding Section 31560, a member whose principal duties, while serving in the position for which the member was incapacitated, consisted of activities defined in Section 31469.3 shall, upon commencement of service by the member in the position specified in the approved reemployment plan, continue to be considered as satisfying the requirements of Section 31560, notwithstanding the actual duties performed during the entire period that the member remains in county service.

(g) This section shall apply only to members who are incapacitated for the performance of the member's duties on or after January 1, 2004, and who are eligible to retire for service-connected disability.

(Added by Stats. 2004, Ch. 379 (AB 2982), Sec. 2, Effective August 30, 2004)

(Amended by Stats. 2005, Ch. 22 (SB 1108), Sec. 90)

§31726. Nonservice-connected disability; benefits at and under age 65

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

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

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

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

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

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

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

(Amended by Stats. 1988, Ch. 160, Sec. 66)

(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 12)

§31726.5. Safety member; nonservice-connected disability; benefits at age 55; benefits under age 55

(a) Upon retirement for nonservice-connected disability a safety member who has attained age 55 shall receive their service retirement allowance.

(b) Every safety member under age 55 who is retired for nonservice-connected disability and who is not simultaneously retired as a member on deferred retirement of the Public Employees' Retirement System or a retirement system established under this chapter in another county shall receive a disability retirement allowance which shall be the greater of:

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

(2) A sum which shall consist of:

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

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

(C) If, in the opinion of the board, the member's disability is not due to conviction of a felony or criminal activity which caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district.

This subparagraph shall only apply to a person who becomes a member of the association on or after January 1, 1988.

(Amended by Stats. 1987, Ch. 842, Sec. 2)

(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 13)

§31727. Nonservice-connected disability retirement pension; amount

The nonservice-connected disability retirement pension shall be such an amount as with that portion of his annuity provided by his accumulated normal contributions will make

his disability retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, equal:

(a) Ninety percent of one-sixtieth of his final compensation multiplied by the number of years of service credited to him, if (1) the member must rely upon service in another retirement system in order to be eligible to retire or (2) such disability retirement allowance exceeds one-third of his final compensation.

(b) If the member is eligible to retire without relying upon service in another retirement system, and the disability retirement allowance computed under (a) does not exceed one-third of his final compensation, 90 percent of one-sixtieth of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age 65, but in such case the retirement allowance shall not exceed one-third of his final compensation.

(Amended by Stats. 1961, Ch. 1695, Sec. 3)

§31727.01. Contra Costa County disability retirement pension; amount (Contra Costa)

Notwithstanding Sections 31727 and 31727.4, if the member is eligible to retire without relying upon service in another retirement system, the disability retirement pension of a member covered under Section 31751 shall be such an amount as with that portion of the member's annuity provided by the member's accumulated normal contributions will make the member's disability retirement allowance, exclusive of the annuity provided by the member's accumulated additional contributions, equal 40 percent of the member's final compensation as defined in Section 31462.

In addition to the above disability allowance, 10 percent of the member's final compensation shall be paid on behalf of each of the member's children up to a maximum of three children.

As used in this section, "child" means a member's child who is dependent upon such member at the time of the member's disability and while such child is unmarried and:

(a) Under 18 years of age, or

(b) Whether under or over 18 years of age, totally disabled and such disability occurred prior to such child attaining the age of 18 years, or

(c) Eighteen years of age or over, but has not attained the age of 22 years, and is enrolled as a full-time student in an accredited school, as determined by the board.

If the member is required to rely upon service in another retirement system to be eligible to retire, the above disability retirement pension and children's allowance shall be multiplied by one-tenth times the years of service.

Disability benefits shall be offset by the amounts of disability payments from other plans of the county and other governmental plans, except workers' compensation and federal social security payments.

(Added by Stats. 1980, Ch. 58, Sec. 7, Effective April 4, 1980)

§31727.1. Service retirement allowance in counties adopting Section 31676.12; amount; application

In counties adopting Section 31676.12, a member upon retirement for nonservice-connected disability, who has attained age 62, shall receive his service retirement allowance.

The nonservice-connected disability retirement pension for a member under age 62 shall be such an amount as with that portion of a member's annuity provided by his accumulated normal contributions will make his disability retirement allowance equal:

(a) Ninety percent of one-fiftieth of his final compensation multiplied by the number of years of service credited to him, if (1) the member must rely upon service in another retirement

system in order to be eligible to retire or (2) such disability retirement allowance exceeds one-third of his final compensation.

(b) If the member is eligible to retire without relying upon service in another retirement system and the disability retirement allowance computed under subdivision (a) does not exceed one-third of his final compensation, 90 percent of one-fiftieth of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age 62, but in such case the retirement allowance shall not exceed one-third of his final compensation.

The amendments to this section during the 1975-76 Regular Session of the Legislature shall not apply in any county until adopted by majority vote of the county supervisors of that county.

(Amended by Stats. 1976, Ch. 36, Sec. 1)

§31727.2. Safety member; nonservice-connected disability retirement pension; amount

The nonservice-connected disability retirement pension for a safety member shall be such an amount as with that portion of his annuity provided by his accumulated normal contributions, will make his disability retirement allowance equal:

(a) Ninety percent of one-fiftieth of his final compensation multiplied by the number of years of service credited to him, if (1) the member must rely upon service in another retirement system in order to be eligible to retire or (2) such disability retirement allowance exceeds one-third of his final compensation.

(b) If the member is eligible to retire without relying upon service in another retirement system, and the disability retirement allowance computed under (a) does not exceed one-third of his final compensation, 90 percent of one-fiftieth of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age 55, but in such case the retirement allowance shall not exceed one-third of his final compensation.

(Amended by Stats. 1961, Ch. 1695, Sec. 4)

§31727.3. Nonservice-connected disability retirement pension in counties adopting Section 31676.15; amount

In counties adopting Section 31676.15, the nonservice-connected disability retirement pension shall be such an amount as with that portion of a member's annuity provided by his accumulated normal contributions will make his disability retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, equal:

(a) Ninety percent of one-fiftieth of his final compensation multiplied by the number of years of service credited to him, if (1) the member must rely upon service in another retirement system in order to be eligible to retire, or (2) such disability retirement allowance exceeds one-third of his final compensation.

(b) If the member is eligible to retire without relying upon service in another retirement system and the disability retirement allowance computed under subdivision (a) does not exceed one-third of his final compensation, 90 percent of one-fiftieth of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age 65, but in such case the retirement allowance shall not exceed one-third of his final compensation.

(Added by Stats. 1975, Ch. 899, Sec. 3)

§31727.4. Service-connected disability pension; amount; application of section

Upon retirement of any member for service-connected disability, he shall receive an annual retirement allowance payable in monthly installments, equal to one-half of his final

compensation. Notwithstanding any other provisions of this chapter, any member upon retirement for service-connected disability shall receive a current service pension or a current service pension combined with a prior service pension purchased by the contributions of the county or district sufficient which when added to the service retirement annuity will equal one-half of his final compensation, or, if qualified for a service retirement, he shall receive his service retirement allowance if such allowance is greater but in no event shall it exceed the limitation as set forth in Section 31676.1 as it now reads or may hereafter be amended to read. The provisions of this section shall also apply to any employee who becomes disabled for service-connected causes prior to the first day of the calendar month when he would normally become a member.

(Amended by Stats. 1959, Ch. 1190, Sec. 1)

§31727.5. Increase in service-connected disability pension

The board of supervisors in any county, by a majority vote, may enact an ordinance providing that the maximum annual allowance payable to a member pursuant to Section 31727.4 who is totally disabled shall be increased to 60, 70, 80, or 90 percent of the member's final compensation, as determined by the board, on the operative date of such ordinance.

For purposes of this section, "totally disabled" means inability to perform substantial employment and the presumptions contained in Section 4662 of the Labor Code shall also be applied to the determination of total disability.

(Added by Stats. 1974, Ch. 1394, Sec. 1)

§31727.6. Retirement for service-connected disability prior to September 11, 1957; calculation of retirement allowance

Every retirement allowance payable for time commencing on the effective date of this section to or on account of any member of this system who was retired for service-connected disability prior to September 11, 1957, shall be calculated pursuant to the provisions of Section 31727.4.

(Added by Stats. 1959, Ch. 1183, Sec. 3)

§31727.7. Nonservice-connected disability pension; amount based on years of credited service; application of section

Upon retirement for nonservice-connected disability, in lieu of any other allowance, a member who has five years or more credited service shall receive a disability allowance equal to the percentage of final compensation set forth opposite the member's number of years of credited service in the following table:

Years of credited service:	Percentage of final compensation:
Five years, but less than six years	20.0
Six years, but less than seven years	22.0
Seven years, but less than eight years	24.0
Eight years, but less than nine years	26.0
Nine years, but less than ten years	28.0
Ten years, but less than eleven years	30.0
Eleven years, but less than twelve years	32.0
Twelve years, but less than thirteen years	34.0
Thirteen years, but less than fourteen years	36.0
Fourteen years, but less than fifteen years	38.0
Fifteen or more years	40.0

This section shall only apply to the following persons:

(a) Persons who become members of the retirement system after the operative date of this section in the county.

(b) Those persons who were members prior to such operative date who, pursuant to a memorandum of understanding with their bargaining unit, elect to be subject to this section on or after such operative date.

(c) Management and confidential employees and employees not a part of a bargaining unit who were members prior to such operative date and elect to be subject to this section on or after such operative date. The board of supervisors shall prescribe the time period and conditions governing the election.

This section shall not be operative in any county until such time as the board of supervisors by majority vote makes the provisions of this section applicable in such county.

(Amended by Stats. 1981, Ch. 704, Sec. 1)

§31728. Lump sum payment due to member's misconduct

If, in the opinion of the board, the disability is due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on the part of the member, and his annuity is less than two hundred forty dollars ($240) a year, the board may pay the member his accumulated contributions in one lump sum in lieu of his annuity.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31728.1. Contra Costa County; Lump sum payment; willful misconduct or violation of law (Contra Costa)

Notwithstanding Section 31728, if, in the opinion of the board, the disability is due to willful misconduct or violation of law on the part of the member covered under Section 31751, and the member's annuity is less than two hundred forty dollars ($240) a year, the board may pay the member's accumulated contributions in one lump sum in lieu of the member's annuity.

(Added by Stats. 1980, Ch. 58, Sec. 8, Effective April 4, 1980)

§31728.2. Lump sum payment; disability due to conviction or criminal activity

Notwithstanding Sections 31728 and 31728.1, if, in the opinion of the board, the disability is due to or results from the conviction of the member of a felony under state or federal law or if the board determines that the criminal activity caused or resulted in the member's disability, the board may pay the member a lump sum which is equal to the sum of his or her accumulated contributions in lieu of the benefits to which the member would otherwise be entitled as set forth in this article and provided that nothing in this section shall be construed to divest a member of any vested right to a service retirement allowance.

This section shall apply only to a person who becomes a member of the system on or after January 1, 1988.

(Added by Stats. 1987, Ch. 842, Sec. 3)

§31729. Medical examination of beneficiary; determination of board

The board may require any disability beneficiary under age 55 to undergo medical examination. The examination shall be made by a physician or surgeon appointed by the board at the place of residence of the beneficiary or other place mutually agreed upon. Upon the basis of the examination the board shall determine whether the disability beneficiary is still physically or mentally incapacitated for service in the office or department of the county or district where he was employed and in the position held by him when retired for disability.

(Amended by Stats. 1953, Ch. 789, Sec. 10)

§31730. Cancellation of benefits after medical examination; reinstatement in employment

If the board determines that the beneficiary is not incapacitated, and his or her employer offers to reinstate that beneficiary, his or her retirement allowance shall be canceled forthwith, and he or she shall be reinstated in the county service pursuant to the regulations of the county or district for reemployment of personnel.

(Amended by Stats. 1982, Ch. 1533, Sec. 2)

§31731. Refusal to submit to examination; effect

If any disability beneficiary under age 55 refuses to submit to medical examination, his pension shall be discontinued until his withdrawal of such refusal, and if his refusal continues for one year, his retirement allowance shall be canceled.

(Amended by Stats. 1951, Ch. 1098, Sec. 31)

§31732. Medical, investigatory and other services; legal services; payment

The board shall secure such medical, investigatory and other service and advice as is necessary to carry out the purposes of this article. Notwithstanding Section 31529, the board may contract with an attorney in private practice for the legal services and advice necessary to carry out the purpose of this article. Notwithstanding Section 31530, the board may contract with a physician in private practice for the medical advice necessary to carry out the purpose of this article. It shall pay for such services and advice such compensation as it deems reasonable.

(Amended by Stats. 1976, Ch. 1318, Sec. 1)

(Amended by Stats. 2021, Ch. 186 (SB 634), Sec. 16)

§31733. Reentry into county service; contributions; prior service credit

If a disability beneficiary is determined by the board to be no longer incapacitated and re-enters the service of a public agency covered by the retirement system under which he retired, his disability retirement allowance shall cease immediately upon such re-entry. If such disability beneficiary again becomes a member of the retirement system, his rate of contribution for future years is that established for his age at the time of his re-entry into the system.

His individual account shall be credited with an amount which is the actuarial equivalent of his annuity at that time, as based upon the mortality table adopted by the board of supervisors for disabled lives, less any amount that has been refunded to him under Section 31737. The amount shall not exceed the amount of his accumulated contributions at the time of his retirement for disability. He shall also receive credit for his service as it existed at the time of his disability retirement.

(Amended by Stats. 1961, Ch. 1852, Sec. 4)

§31737. Effect of cancellation of retirement allowance

If the retirement allowance of any disability beneficiary is canceled for any cause other than under Section 31733, he shall be paid his accumulated contributions, less the annuity payments made to him.

(Amended by Stats. 1961, Ch. 1852, Sec. 5)

§31738. Calculation of retirement allowance payments

Each payment of a retirement allowance, after the effective date of this section, to a beneficiary who retired prior to September 20, 1947, shall be calculated according to the provisions of this chapter as they existed on September 20, 1947.

(Added by Stats. 1949, Ch. 448, Sec. 2)

§31739. Increase of benefits of members retired for disability prior to January 1, 1948; adoption of section by county boards

Every retirement allowance payable for time commencing on the effective date of this

section to or on account of any member of this system or of a superseded system, who was retired for disability prior to January 1, 1948, is hereby increased by twenty-five dollars ($25) per month if the retired member is entitled to be credited with 20 years or more of service, or, if the retired member is entitled to be credited with less than 20 years of service, by an amount which bears the same ratio to twenty-five dollars ($25) as the member's completed years of service with which the member is entitled to be credited bears to 20 years.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Amended by Stats. 1963, Ch. 818, Sec. 3)

§31739.2. Increase of benefits of members retired after January 1, 1948, but prior to February 1, 1955; adoption of section by county boards

Every retirement allowance for time commencing on the effective date of this section to or on account of any member of this system or of a superseded system, who was retired for disability on or after January 1, 1948, but prior to February 1, 1955, or such other date prior to February 1, 1955, as the board of supervisors in any county shall specify by resolution, is hereby increased by twenty-five dollars ($25) per month if the retired member is entitled to be credited with 20 years or more of service, or, if the retired member is entitled to be credited with less than 20 years of service, by an amount which bears the same ratio to twenty-five dollars ($25) as the member's completed years of service with which the member is entitled to be credited bears to 20 years.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Amended by Stats. 1963, Ch. 818, Sec. 4)

§31739.3. Increase of benefits payable to retired members for time commencing on September 15, 1961

Every retirement allowance payable for time commencing on the effective date of this section to or on account of any member of this system, or of a superseded system, who has been retired for disability, is increased as follows:

Period during which retirement became effective	Percentage of increase in monthly retirement allowance
On or prior to June 30, 1956	10%
Twelve months ended June 30, 1957	8%
Twelve months ended June 30, 1958	6%
Twelve months ended June 30, 1959	4%
Twelve months ended June 30, 1960	2%

In no event shall any allowance be increased by an amount greater than fifty dollars ($50) a month nor less than ten dollars ($10) a month.

This section shall not be operative in any county until such time as the board of supervisors shall by ordinance adopted by majority vote make the provisions of this section applicable in such county, providing further that an actuarial survey of the system has been made by the adopting county's system prior to the passage of said ordinance.

(Added by Stats. 1961, Ch. 1120, Sec. 2)

§31739.4. Temporary increase of benefits; finding by board of supervisors

Every retirement allowance payable during the time this section is operative in any

county to, or on account of any member of this system or of a superseded system, who has been retired for disability shall be increased by an amount equal to the product one dollar ($1) times years of service, not to exceed 20 years, times the number in the following table:

Period during which retirement became effective	Multiply by
On or prior to June 30, 1957	2.0
Twelve months ended June 30, 1958	1.5
Twelve months ended June 30, 1959	1.0
Twelve months ended June 30, 1960	0.5

This section shall not be operative in any county except as follows: The board of supervisors of a county at any time and from time to time may find that economic conditions are such as to require either that this entire section, or this section as applied to one or more categories of members in the above table be applicable in such county. The board of supervisors of such county from time to time may either rescind or modify such finding and either find that economic conditions do not require that this section be applicable at all in such county or be applicable to a greater, lesser, or different extent than previously found. This section or this section as applied to one or more categories of members in the above table, as the case may be, shall be applicable in such county when and only during the time when such finding is in effect. The giving of additional retirement benefits pursuant to this section shall create no additional contractual rights and shall not preclude the withdrawal of such benefits either by action of the board of supervisors or of the Legislature.

(Added by Stats. 1963, Ch. 634, Sec. 2)

§31739.5. Cost-of-living payments; applicability of provisions

The provision in Section 31681.8, when adopted or readopted, shall apply to members of this system or a superseded system who retired for disability, except that payments to a member of this system or a superseded system who retired for service-connected disability or to the surviving beneficiary of such member shall be computed on the basis that the member's service had continued to age 60, if a safety member, or age 70, if any other category of member, provided, that this additional service credit shall not exceed 30 years.

(Amended by Stats. 1988, Ch. 76, Sec. 2)

§31739.31. Increase in retirement, optional death and annual death allowances; adoption of section by ordinance

Every retirement allowance, optional death allowance, or annual death allowance (including an allowance payable to a survivor of a member) payable to or on account of any member of this system or of a superseded system who has been or was retired for disability is increased as follows:

Period during which retirement became effective	Percentage of increase in monthly retirement allowance
On or prior to June 30, 1962	10%
Twelve months ended June 30, 1963	8%
Twelve months ended June 30, 1964	6%
Twelve months ended June 30, 1965	4%
Twelve months ended June 30, 1966	2%

In no event shall any allowance be increased by an amount greater than fifty dollars ($50) a month or less than ten dollars ($10) a month.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1967, Ch. 892, Sec. 2)

§31739.32. Increase in retirement, optional death and annual death allowances; adoption of section by ordinance

Every retirement allowance, optional death allowance, or annual death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system or of a superseded system who has been or was retired for disability is increased as follows:

Period during which retirement became effective	Percentage of increase in monthly retirement allowance
On or prior to June 30, 1967	10%
Twelve months ended June 30, 1968	8%
Twelve months ended June 30, 1969	6%
Twelve months ended June 30, 1970	4%
Twelve months ended June 30, 1971	2%

In no event shall any allowance be increased by an amount greater than seventy-five ($75) a month or less than twenty-five dollars ($25) a month. A member with credit for 10 or more years of service in the system shall receive not less than twenty-five dollars ($25) a month.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1973, Ch. 298, Sec. 2)

§31739.33. Increase in retirement, optional death or annual death allowances under $500; adoption by county

(a) Except as provided in subdivision (b), a retirement allowance, optional death allowance or annual death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system or of a superseded system who has been or was retired for disability which did not on July 1, 1976, exceed five hundred dollars ($500) per month is hereby increased as follows:

Number of years of county or district service	Percentage of increase in monthly retirement allowance
25 or more years	10%
20-25 years	8%
15-20 years	6%

(b) No allowance shall be increased to more than five hundred dollars ($500) per month pursuant to subdivision (a).

This section shall not be operative in a county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in that county.

(Added by Stats. 1976, Ch. 627, Sec. 2)

(Amended by Stats. 2008, Ch. 179 (SB 1498), Sec. 104)

§31739.34. Increase in retirement, optional death or annual death allowances under $500; adoption by county

(a) Except as provided in subdivision (b) of this section, a retirement allowance, optional death allowance or annual death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system, or of a superseded system, who retired for disability on or before December 31, 1971, is hereby increased as follows:

Number of years of county or district service	Percentage of increase in monthly retirement allowance
25 or more years	10%
20-25 years	8%
15-20 years	6%
10-15 years	4%

(b) No allowance shall be increased to more than five hundred dollars ($500) per month pursuant to subdivision (a) of this section.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1980, Ch. 442, Sec. 3)

§31740. Supplemental disability retirement allowance

In any county which has implemented the provisions of Article 15.6 (commencing with Section 31855), any member who is thereafter retired for disability shall receive a supplemental disability retirement allowance in the sum of three hundred dollars ($300) per month in addition to any other benefits due under this chapter, provided the member's disability is such that the member is incapable of gainful employment. The board may adopt regulations, including a requirement for periodic declarations of nonemployment, to administer this supplemental allowance.

(Added by Stats. 1974, Ch. 415, Sec. 2)

§31751. Tier Two, applicability to officers and employees of Contra Costa County; resolution; applicability to districts; coverage; regulations allowing coverage to individual employees; disability allowances; retroactive application (Contra Costa)

Notwithstanding any other provision of law:

(a)(1) The Board of Supervisors of Contra Costa County may make this section, Tier Two, applicable to officers and employees of the county, by adopting a resolution specifying the future operative date of its application.

(2) After the board of supervisors has adopted that resolution, the governing body of a district may make this section applicable as Tier Two to its officers and employees on and after the future operative date it specifies.

(b) Except as otherwise provided in this section, Tier Two shall cover all officers and employees who become members or return to membership in the county on or after April 4, 1980, and in a district on or after the date of its applicability thereto.

(c)(1) This section may not cover any employee who is in, or eligible for, safety membership under this chapter.

(2) This section may not cover any person who is a member of the retirement system in the county or district on the operative date of its application thereto unless and until the person voluntarily in writing irrevocably requests coverage.

(3) This section may not cover any member who does not request coverage, is then

laid off, and later returns to membership.

(4) This section may not cover any member who does not request coverage, then becomes a deferred member, and later returns to active membership

(5) This section may not cover any person referred to in subparagraph (C) of paragraph (2) of subdivision (d) who does not request coverage.

(d)(1) The board of supervisors shall adopt regulations allowing individual county and district employees to irrevocably request coverage under Tier Two.

(2) The regulations shall specify the period during which each person may request coverage.

(A) For persons who are employees on the applicability date of this section, Tier Two, to the county or district, this period may not exceed one year after that date.

(B) For persons not subject to subparagraph (A), who before the Tier Two applicability date chose deferred retirement under Article 9 (commencing with Section 31700) from the county's Tier One retirement system, and who thereafter while still in deferred status returned to active membership, this period may not exceed 90 days after that return.

(C) For persons not subject to subparagraph (A) who enter or reenter employment in the county or the district, for the first time after Tier Two is applicable thereto, with reciprocal rights under Article 15 (commencing with Section 31830), this period may not exceed 90 days after that entry or reentry.

(e) Anyone requesting coverage as provided for in this section, who becomes permanently incapacitated as defined in Section 31720.1, shall be granted a disability allowance under Section 31727.01 if the member has completed five years of service.

(f) This section is intended to, and shall, apply retroactively, from the effective date of the original enactment of Section 31751, April 4, 1980, forward so that its beneficial effects and those of the original enactment are available to all persons covered by this section as though it had been originally enacted in its present form.

(g) Notwithstanding any other provision of law, if a county adopts a resolution pursuant to subdivision (a) of Section 31755.1, this section may, pursuant to a memorandum of understanding in accordance with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1), be made inapplicable to those officers and employees of the county specified in the resolution for service performed on and after the operative date specified in the memorandum of understanding. In that event, this section shall also be inapplicable to nonrepresented employees within similar job classifications as employees in applicable bargaining units and to the supervisors and managers of those employees. If a district adopts a resolution pursuant to subdivision (a) of Section 31755.1, this section shall be inapplicable to the officers and employees of the district on and after the operative date of the resolution.

(h) No district may make this section applicable to any of its officers or employees on or after the effective date of the act adding this subdivision.

(Repealed and added by Stats. 1984, Ch. 591, Sec. 4, Effective July 19, 1984)

(Added by Stats. 2002, Ch. 695 (SB 2100), Sec. 2, Effective September 18, 2002, as an urgency statute)

§31752. Contra Costa County; retirement allowance (Contra Costa)

This section shall apply to members subject to Section 31751. Notwithstanding any other provision of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal, as follows:

(a) The percentage of the member's final compensation, as defined in Section 31462,

in the following table set forth in Column (A) opposite the member's age at retirement, taken to the preceding completed quarter year, multiplied by the number of years of service under Section 31751 with which the member is entitled to be credited at retirement, less

(b) The percentage of the member's Primary Insurance Amount to which the member shall be entitled under federal social security, projected to age 62, if the member is less than age 62, or to which the member is now entitled, if the member is at least age 62, set forth in the following table in Column (B) opposite the member's age at retirement, taken to the preceding completed quarter year, multiplied by the number of years of service subject to Section 31751 during which the member was covered by social security while a member of the county retirement association. The maximum number of years used in this calculation shall not exceed 30.

Age at retirement	**Percentages (A)**	**(B)**
50	.830	.573
50 1/4	.845	.585
50 1/2	.860	.597
50 3/4	.875	.609
51	.890	.622
51 1/4	.905	.635
51 1/2	.920	.648
51 3/4	.935	.661
52	.950	.675
52 1/4	.965	.689
52 1/2	.980	.704
52 3/4	.995	.719
53	1.010	.734
53 1/4	1.025	.750
53 1/2	1.040	.766
53 3/4	1.055	.782
54	1.070	.799
54 1/4	1.085	.816
54 1/2	1.100	.834
54 3/4	1.115	.853
55	1.130	.872
55 1/4	1.145	.891
55 1/2	1.160	.911
55 3/4	1.175	.931
56	1.190	.952
56 1/4	1.205	.973
56 1/2	1.220	.995
56 3/4	1.235	1.017
57	1.250	1.040
57 1/4	1.265	1.064
57 1/2	1.280	1.088

Age at retirement	Percentages (A)	(B)
57 3/4	1.295	1.113
58	1.310	1.139
58 1/4	1.325	1.165
58 1/2	1.340	1.192
58 3/4	1.355	1.220
59	1.370	1.249
59 1/4	1.385	1.279
59 1/2	1.400	1.309
59 3/4	1.415	1.340
60	1.430	1.372
60 1/4	1.445	1.405
60 1/2	1.460	1.440
60 3/4	1.475	1.475
61	1.490	1.511
61 1/4	1.505	1.548
61 1/2	1.520	1.587
61 3/4	1.535	1.626
62	1.550	1.667
62 1/4	1.565	1.667
62 1/2	1.580	1.667
62 3/4	1.595	1.667
63	1.610	1.667
63 1/4	1.625	1.667
63 1/2	1.640	1.667
63 3/4	1.655	1.667
64	1.670	1.667
64 1/4	1.685	1.667
64 1/2	1.700	1.667
64 3/4	1.715	1.667
65 and over	1.730	1.667

(Added by Stats. 1980, Ch. 58, Sec. 10, Effective April 4, 1980)

§31755. Tier Three, applicability; coverage; disability retirement allowances; service retirements; cost-of-living adjustments; adoption of regulations

(a)(1) The board of supervisors of Contra Costa County may make this section, Tier Three, applicable to officers and employees for whom it is the governing body, by adopting a ordinance specifying the future operative date of its application.

(2) As used in this section, "Tier One" refers to the retirement plan covering general members not covered by Section 31751.

(3) After the board of supervisors has adopted an ordinance, the governing body of a district not governed by the board of supervisors may make this section applicable as Tier Three to its officers and employees on and after the future operative date it specifies.

(b) Except as otherwise provided in this section, this section shall cover all officers and employees

who are members or return to membership in the county's Tier Two retirement system established by Section 31751 on or after the operative date specified in the ordinance adopted pursuant to subdivision (a), and in a district on or after the date of its applicability thereto.

(c)(1) This section shall not cover any employee who is in, or eligible for, Tier One or safety membership under this chapter.

(2) This section shall not cover any person who is a member of the retirement system in the county or district on or after the operative date of its application thereto unless and until the person voluntarily in writing irrevocably elects coverage.

(3) This section shall not be applicable to any eligible member who does not elect coverage, is then laid off or terminates employment, regardless of whether voluntarily or involuntarily, and later returns to membership employment.

(4) This section shall not be applicable to any eligible member who does not elect coverage, then retires or becomes a deferred member, and later returns to active membership.

(5) This section shall not be applicable to any person referred to in subparagraph (D) of paragraph (2) of subdivision (d) who does not elect coverage.

(d) Upon adoption of this section by the board of supervisors, the following provisions shall become applicable:

(1) Subject to the provisions of paragraph (2) of subdivision (d), any qualified individual county or district employee may irrevocably elect coverage under Tier Three.

(2)(A) County or district employees who are members of the county's Tier Two retirement system and who have attained five years credited service with the county or district on the applicable date of this section, must elect Tier Three coverage in writing within six months after that date.

(B) Persons not under subparagraph (A), who thereafter attain five years credited service in the county's Tier Two retirement system, must elect Tier Three coverage in writing within 90 days after attaining the five years retirement credited service.

(C) Persons not under subparagraph (A) or (B), who, before the Tier Three applicability date, elected deferred retirement under Article 9 (commencing with Section 31700) from the county's Tier Two retirement system, and who had at least five years credited Tier Two service, and who thereafter while still in deferred status return to active membership, must elect coverage in writing within 90 days after that return.

(D) Persons not subject to subparagraphs (A), (B), or (C), who enter or reenter employment in the county or the district for the first time after Tier Three is applicable thereto, and who have reciprocal rights under Article 15 (commencing with Section 31830), and who are otherwise eligible to elect Tier Three by virtue of their Tier Two status and years of retirement credited service must elect Tier Three coverage in writing within 90 days after that entry or reentry.

(e) The board may not grant a disability retirement allowance to a person who has become a Tier Three member except as provided in Section 31720.1. The amount of disability retirement allowances under Tier Three shall be as set forth in Section 31727.01.

(f) Notwithstanding any other provision of this chapter, service retirements under Tier Three shall be governed by the same provisions which govern Tier One retirements in Contra Costa County.

(g) Notwithstanding any other provision of this chapter, Tier Three retired members who have retired for service shall only be entitled to cost-of-living adjustments as provided by the board of supervisors for Tier One retired members pursuant to Article 16.5 (commencing with Section 31830).

(h) Notwithstanding any other provision of this chapter, Tier Three retired members who have been retired for disability shall only be entitled to cost-of-living adjustments as

provided by the board of supervisors for Tier Two retired members pursuant to Article 16.5 (commencing with Section 31830).

(i) The board of supervisors may adopt regulations to implement the provisions of this section.

(Added by Stats. 1997, Ch. 254 (AB 180), Sec. 1)

(Amended by Stats. 2004, Ch. 183 (AB 3082), Sec. 169)

(Amended by Stats. 2005, Ch. 22 (SB 1108), Sec. 91)

§31755.1. Applicability of Tier Three to officers and employees of Contra Costa County who become members or return to membership in the county or district; applicability or benefit formula to Tier Two service (Contra Costa)

Notwithstanding any other provision of law:

(a)(1) The Board of Supervisors of Contra Costa County may, pursuant to a memorandum of understanding in accordance with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1), adopt a resolution making this section applicable to the officers and employees of the county specified in the resolution and specifying the future operative date of its application.

(2) After the board of supervisors has adopted that resolution, the governing body of a district may make this section applicable to its officers and employees by adopting a resolution specifying the future operative date of its application, which date may not be earlier than the operative date of the resolution described in paragraph (1).

(b)(1) Except as otherwise provided in this section, Tier Three, as described in Section 31755, shall apply to all officers and employees who become members or return to membership in the county or district, and with respect to service performed, on or after the date this section becomes applicable in the county or district.

(2) On the date this section becomes applicable in the county or district, those officers and employees specified in the resolution described in subdivision (a) and then-subject to Tier Two shall thereafter be covered by Tier Three, as described in Section 31755, for service performed on and after that date.

(c) This section may not apply to an employee for any service performed while he or she is a safety member under this chapter or is subject to Tier One, as described in Section 31755.

(d) The benefit formula set forth in Section 31752 shall apply to the Tier Two service with which a member is entitled to be credited at retirement.

(e) If the county adopts a resolution pursuant to subdivision (a), this section shall apply equally to any nonrepresented employees in similar job classifications as employees within applicable bargaining units and to the supervisors and managers of those employees.

(Added by Stats. 2002, Ch. 695 (SB 2100), Sec. 3, Effective September 18, 2002, as an urgency statute)

§31755.2. Applicability of benefit formula to Tier Three officers and employees of Contra Costa County (Contra Costa)

Notwithstanding any other provision of law:

(a)(1) The Board of Supervisors of Contra Costa County may, pursuant to a memorandum of understanding in accordance with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1), adopt a resolution making this section applicable to the officers and employees of the county specified in the resolution and specifying the future operative date of its application.

(2) After the board of supervisors has adopted that resolution, the governing body of a district may make this section applicable to its officers and employees by adopting a resolution specifying the future operative date of its application, which date may not be earlier

than the operative date of the resolution described in paragraph (1).

(b) Notwithstanding any other provision of law, the benefit formula set forth in Section 31676.16 shall apply to the Tier Three service with which a member, who retires on or after the date this section becomes applicable in the county or district, is entitled to be credited and for which the member has paid Tier Three member contributions.

(c) Notwithstanding any other provision of law, Section 31676.16 does not apply to any periods of service performed as Tier Two service under Section 31751, except to the extent that Tier Three service credit is purchased by or on behalf of the member for those periods.

(d) If the county adopts a resolution pursuant to subdivision (a), this section shall apply equally to any nonrepresented employees in similar job classifications as employees within applicable bargaining units and to the supervisors and managers of those employees.

(Added by Stats. 2002, Ch. 695 (SB 2100), Sec. 4, Effective September 18, 2002, as an urgency statute)

§31755.3. Applicability of benefit formula to Tier One officers and employees of Contra Costa County (Contra Costa)

Notwithstanding any other provision of law:

(a)(1) The Board of Supervisors of Contra Costa County may, pursuant to a memorandum of understanding in accordance with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1), adopt a resolution making this section applicable to the officers and employees of the county specified in the resolution and specifying the future operative date of its application.

(2) After the board of supervisors has adopted that resolution, the governing body of a district may make this section applicable to its officers and employees by adopting a resolution specifying the future operative date of its application, which date may not be earlier than the operative date of the resolution described in paragraph (1).

(b) The benefit formula set forth in Section 31676.16 shall apply to the Tier One service with which a member is entitled to be credited at retirement. As used in this section, "Tier One" shall have the meaning set forth in Section 31755.

(c) If the county adopts a resolution pursuant to subdivision (a), this section shall apply equally to any nonrepresented employees in similar job classifications as employees within applicable bargaining units and to the supervisors and managers of those employees.

(Added by Stats. 2002, Ch. 695 (SB 2100), Sec. 5, Effective September 18, 2002, as an urgency statute)

§31755.4. Contra Costa County; officers and employees who are members of defined benefit plan for nonsafety members; eligibility for disability retirement allowance under same conditions as Tier Three (Contra Costa)

(a) The Board of Supervisors of Contra Costa County may, by adopting an ordinance, make this section applicable to officers and employees for whom the board is the governing body.

(b) This section shall not apply to any officer or employee who is a safety member.

(c) Notwithstanding any other law, members whose benefits are determined under Section 7522.20 shall be eligible for a disability retirement allowance under the same terms and conditions provided in Section 31755 for members covered by Tier Three. The board may not grant a disability retirement allowance to a member whose benefits are determined under Section 7522.20 except as provided in Section 31720.1. The amount of the disability retirement allowance for a member whose benefits are determined under Section 7522.20 shall be as set forth in Section 31727.01.

(d) Notwithstanding any other law, members whose benefits are determined under

Section 7522.20 who have been retired for disability shall be eligible for cost-of-living adjustments under the same terms and conditions provided in subdivision (h) of Section 31755 for members covered by Tier Three who have been retired for disability.

(e) This section shall apply only in Contra Costa County.

(Added by Stats. 2016, Ch. 123 (AB 1692), Sec. 1)

Article 11

Optional Retirement Allowances

(Article 11 added by Stats. 1947, Ch. 424, Sec. 1)

§31760. Election of actuarial equivalent of retirement allowance; change of allowance type pending determination of disability entitlement

(a) Except as provided in subdivisions (b) and (c), until the first payment of any retirement allowance is made, a member or retired member, in lieu of the retirement allowance for the member's life alone, may elect to have the actuarial equivalent of their retirement allowance as of the date of retirement applied to a lesser retirement allowance payable throughout life in accordance with one of the optional settlements specified in this article.

(b) Notwithstanding subdivision (a), a member who applies for disability and is subsequently granted a service retirement pending a determination of entitlement to disability may change the type of optional or unmodified allowance that they elected at the time the service retirement was granted, subject to the provisions of Section 31725.7.

(c) Notwithstanding subdivision (a), a member retired for service who applies for, and is subsequently granted, a disability retirement may change the type of optional or unmodified allowance that was elected at the time the service retirement was granted, subject to the provisions of Section 31725.7.

(Added by Stats. 1947, Ch. 424, p. 1282, Sec. 1)

(Amended by Stats. 1955, Ch. 372, p. 883, Sec. 10)

(Amended by Stats. 2015, Ch. 40 (AB 992), Sec. 1)

(Amended by Stats. 2022, Ch. 524 (AB 1971), Sec. 5)

§31760.1. Continuance of allowance to family of deceased member; minor children; designated beneficiary

Upon the death of any member after retirement for service or non-service-connected disability from a retirement system established in a county subject to the provisions of Section 31676.1, 60 percent of the member's retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued throughout life to the member's surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if the surviving spouse dies before every natural or adopted child of the deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's natural or adopted child or children under that age collectively, to continue until every child dies or attains that age; provided, that no child shall receive any allowance after marrying or attaining the age of 18 years. No allowance, however, shall be paid under this section to a surviving spouse unless the surviving spouse was married to the member at least one year prior to the date of the member's retirement. The right of a child or children of a deceased member to receive an allowance under this section, in the absence of an eligible surviving spouse, shall not be dependent on whether the child or children were nominated by the deceased member as the beneficiary of any benefits payable upon or by reason of the member's death, and shall be

superior to and shall supersede the rights and claims of any other beneficiary so nominated.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

If at the death of any retired member there is no surviving spouse or minor children eligible for the 60-percent continuance provided in this section, and the total retirement allowance income received by the member during the member's lifetime did not equal or exceed the member's accumulated normal contributions, the member's designated beneficiary shall be paid an amount equal to the excess of the member's accumulated normal contributions over the member's total retirement allowance income.

The superseding rights pursuant to this section shall not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(Amended by Stats. 1995, Ch. 847 (AB 847), Sec. 6)

(Amended by Stats. 1998, Ch. 132 (SB 2137), Sec. 3)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 50)

§31760.2. Continuance of retirement allowance to surviving spouse or children of deceased member; conditions

(a) Notwithstanding Section 31481 or 31760.1, upon the death of any member after retirement for service or non-service-connected disability from a retirement system established in a county pursuant to this chapter, 60 percent of the member's retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued to the member's surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if the surviving spouse dies before every child of the deceased member attains the age of 18 years, then the allowance that the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under that age collectively, to continue until each child dies or attains that age. However, no child may receive any allowance after marrying or attaining the age of 18 years.

(b) No allowance may be paid under this section to a surviving spouse unless the surviving spouse was married to the member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death.

(c) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school, as determined by the board.

(d) If at the death of any retired member there is no surviving spouse or minor children eligible for the 60-percent continuance provided in this section and the total retirement allowance income received by the retired member during the member's lifetime did not equal or exceed the member's accumulated normal contributions, the retired member's designated beneficiary shall be paid an amount equal to the excess of the member's accumulated normal contributions over the member's total retirement allowance income.

(e) No allowance may be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31760.1.

(f) The superseding rights pursuant to this section do not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(g) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the

resolution, as of which the resolution and this section shall be operative in the county.

(Added by Stats. 1986, Ch. 849, Sec. 1)

(Amended by Stats. 1999, Ch. 161 (SB 670), Sec. 1)

(Amended by Stats. 2002, Ch. 875 (AB 2060), Sec. 1)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 51)

§31760.3. Notice to spouse of member's selection of benefits or change of beneficiary; spouse's applications for refund, etc.; exceptions; adoption by county

The sole purpose of this section is to notify the current spouse of the selection of benefits or change of beneficiary made by a member. Nothing in this section is intended to conflict with community property law. An application for a refund of the member's accumulated contributions, an election of optional settlement, or a change in beneficiary designation shall contain the signature of the current spouse of the member, unless the member declares, in writing under penalty of perjury, any of the following:

(a) The member is not married.

(b) The current spouse has no identifiable community property interest in the benefit.

(c) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse.

(d) The current spouse has been advised of the application and has refused to sign the written acknowledgment.

(e) The current spouse is incapable of executing the acknowledgment because of incapacitating mental or physical condition.

(f) The member and the current spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the family Code which makes the community property law inapplicable to the marriage.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make this section applicable in the county.

(Amended by Stats. 1992, Ch. 163, Sec. 87, Effective January 1, 1993. Operative January 1, 1994, by Sec. 161 of Ch. 163)

§31760.5. (Operative date contingent) Election of lesser pension amount and increased survivor allowance; Applicability

(a) Notwithstanding Section 31760 and in lieu of the retirement allowance and the continuing or survivor allowance, if any, otherwise payable to a retired member and his or her surviving spouse pursuant to this article, a member may elect in writing to have the actuarial equivalent of these benefits, as of the date of retirement, applied to a lesser amount payable throughout the retired member's life, and to an increased survivor allowance as approved by the board, upon the advice of the actuary, that, upon the death of the retired member, shall be continued throughout the life of and paid to his or her surviving spouse. To qualify for benefits under this section, the surviving spouse must be married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if the surviving spouse dies before every child of the deceased retired member, including every stepchild and adopted child, attains the age of 18 years, then the increased survivor allowance that the spouse would have received had he or she survived shall be paid to the deceased retired member's child or children under the age of 18 years. If the increased survivor allowance is to be paid to surviving children, it shall be divided among the children in equal shares. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or attaining the age of 18 years.

(b) Notwithstanding any other provisions of this section, the allowance otherwise payable to the children of the deceased retired member shall be paid through the age of 21

years if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(c) The election under this section may not, in the opinion of the board and the actuary, place any additional burden upon the retirement system. If a member elects to be subject to this section, the retirement allowance that would otherwise be payable to the member shall be reduced by the additional cost to the system resulting from the increased survivor allowance. The actuarial cost of the survivor allowance payable under this section shall be calculated taking into account the life expectancy of the member's surviving spouse.

(d) This section is only applicable to Los Angeles County and is not operative unless and until the board of supervisors of the county elects, by resolution adopted by a majority vote, to make this section operative in the county. This section applies only to those members who retire after the operative date of this section.

(Added by Stats. 2004, Ch. 152 (SB 1260), Sec. 3)

§31760.7. Retired member entitled to elect or change optional retirement allowance if specified criteria met

(a) A retired member, in order to provide for his or her domestic partner, shall be entitled to elect or change any optional retirement allowance pursuant to this article, if all of the following criteria are satisfied:

(1) The member retired on or before January 1, 2006.

(2) At retirement, the member elected an unmodified retirement allowance or one of the optional settlements specified in this article naming his or her domestic partner as beneficiary.

(3) At the time of election under this section, the retired member and domestic partner are registered as domestic partners with the Secretary of State, and provide a copy of their Certificate of Registered Domestic Partnership to the retirement system.

(4) The retired member and domestic partner sign an affidavit under penalty of perjury stating that at least one year prior to the member's service retirement effective date or at the disability retirement date the member and partner would have qualified to be registered as domestic partners pursuant to Section 297 of the Family Code.

(b) The retirement system has no obligation to locate or otherwise contact retired members who may qualify for allowances under the terms of this section.

(c) Notwithstanding any other provision of this chapter, if a retired member elects to change his or her retirement election pursuant to this section, the member's allowance shall be adjusted prospectively only. The adjusted retirement allowance shall be effective on the first day of the month following receipt of the member's signed election. The member shall not be eligible to recover payment retroactively for any period between his or her retirement effective date and the date of election under this section.

(d) This section does not apply to members who are required to provide a continuing benefit to a former spouse pursuant to court order.

(e) The right of a member to make an election pursuant to this section shall expire on January 1, 2007.

(Added by Stats. 2005, Ch. 418 (SB 973), Sec. 25)

§31760.8. Revision of designated beneficiary of an optional settlement; conditions

(a) Notwithstanding Section 31782, a retired member, in order to provide for his or her spouse, shall be entitled to revise the designated beneficiary of an optional settlement elected pursuant to Section 31762, 31763, or 31764 at the time of retirement, if all of the following criteria are satisfied:

(1) The member retired on or before the date the board made Section 31760.2, 31785.1, or 31786.1 applicable in the county.

(2) At retirement, the member was unmarried or had been married less than one year.

(3) The member's spouse is at least 55 years of age and is older than the originally designated beneficiary.

(4) The member's application satisfies the requirements described in subdivisions (b) and (c).

(b)(1) An application for a revision of an optional settlement pursuant to this section shall include the signature of the designated beneficiary of the optional settlement acknowledging the revision or shall include a written declaration of one or more of the following as may be applicable to the member:

(A) The beneficiary has no identifiable community property interest in the benefit.

(B) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the beneficiary.

(C) The beneficiary has been advised of the application and has refused to sign the written acknowledgment.

(D) The beneficiary is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(2) The purpose of this subdivision is to notify the beneficiary of the revision of an optional settlement made by a member that may affect the entitlement of the beneficiary.

(3) A person who knowingly provides false information in the written declaration submitted pursuant to paragraph (1) shall be subject to a civil penalty of not less than one thousand dollars ($1,000) and not more than twenty-five thousand dollars ($25,000), in addition to any civil remedies available to the board. An action to impose a civil penalty pursuant to this paragraph may be brought by any public prosecutor in the name of the people of the state.

(c) In addition to the requirements of subdivision (b), if the originally designated beneficiary of the optional settlement is a former spouse or domestic partner of the member, the application for revision of an optional settlement shall also evidence agreement to the revision by the former spouse or domestic partner.

(d) After revision, the member's retirement allowance shall remain the same as provided by the optional settlement, adjusted by any cost-of-living increases that have been added to the retirement allowance.

(e) The retirement system has no obligation to locate or otherwise contact retired members who may qualify for a revision under this section.

(f) No actions taken pursuant to this section excuse the obligation of a member to provide a continuing benefit to a former spouse or other person pursuant to court order.

(g) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the resolution, as of which the resolution and this section shall be operative in the county.

(Added by Stats. 2014, Ch. 726 (AB 1824), Sec. 1)

§31760.11. Contra Costa County; continuance of allowance to family of deceased member; minor children; designated beneficiary (Contra Costa)

Notwithstanding Section 31760.1, upon the death after retirement of any member covered under Section 31751, 60 percent of the member's retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued throughout life to the member's spouse if the spouse is designated as the beneficiary. No allowance, however, shall be paid under this section to a surviving spouse unless she or he was married to the member at least one year prior to the date of the member's retirement.

If there is an eligible spouse, in addition to the above, 20 percent of the member's unmodified retirement allowance shall be paid to each of the member's children. The

maximum family benefit under this section shall be 100 percent of the member's retirement allowance.

If, on the death after retirement of any member covered under Section 31751, there is no spouse eligible for the 60 percent continuance but there is at least one eligible child, or if there was an eligible spouse and the spouse dies while there is at least one eligible child, the child, or children collectively, shall be entitled to the 60 percent continuance of the member's unmodified allowance.

As used in this section, "child" means a member's child who is dependent upon such member at the time of his or her retirement and while such child is unmarried and:

(a) Under 18 years of age, or

(b) Whether or over 18 years of age, totally disabled and such disability occurred prior to such child attaining the age of 18 years, or

(c) Eighteen years of age or over, but has not attained the age of 22 years, and is enrolled as a full-time student in an accredited school, as determined by the board.

If, at the death of any retired member, there is no surviving spouse or children eligible for the continuance of the allowance provided in this section, and the total retirement allowance income received by the member during the member's lifetime did not exceed the member's accumulated normal contributions and cost-of-living contributions, the member's designated beneficiary shall be paid an amount equal to the excess of such contributions at retirement date over the total amount of the retirement allowance income received by the member.

(Added by Stats. 1980, Ch. 58, Sec. 11, Effective April 4, 1980)

§31760.12. Survivor allowance paid pursuant to Section 31760.1 on account of member who retires on or after operative date of section; amount equal to 65 percent of member's monthly retirement allowance; application and operative effect (Los Angeles)

Notwithstanding Section 31760.1, each survivor allowance paid pursuant to Section 31760.1 on account of a member who retires on or after the operative date of this section shall be equal to 65 percent of the member's monthly retirement allowance, if not modified in accordance with one of the optional settlements specified in this article.

This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 9, Effective October 13, 2001, as an urgency statute)

§31760.13. Amount of survivor allowance paid on or after operative date of this section pursuant to Section 31760.1 on account of member who retires before operative date of this section; application and operative effect (Los Angeles)

(a) Notwithstanding Section 31760.1, each survivor allowance paid on or after the operative date of this section pursuant to Section 31760.1 on account of a member who retires before the operative date of this section shall be equal to 65 percent of the member's monthly retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, as adjusted for the net cost-of-living percentage increase, if any, awarded to that survivor prior to the operative date of this section.

(b) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 10, Effective October 13, 2001, as an urgency statute)

§31761. Optional settlement 1

Optional settlement 1 consists of the right to elect in writing to have a retirement allowance paid to the member until the member's death and, if the member dies before receiving in annuity payments the amount of the member's accumulated contributions at retirement, to have the balance at death paid to the member's estate or to the natural person, having an insurable interest in the member's life, as the member nominates by written designation duly executed and filed with the board.

(Amended by Stats. 1991, Ch. 982, Sec. 2)

(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 14)

§31762. Optional settlement 2

Optional settlement 2 consists of the right to elect in writing to have a retirement allowance paid to the member until the member's death, and thereafter to the natural person, having an insurable interest in the member's life, as the member nominates by written designation duly executed and filed with the board at the time of the member's retirement.

(Amended by Stats. 1991, Ch. 982, Sec. 3)

(Amended by Stats. 2004, Ch. 183 (AB 3082), Sec. 170)

(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 15)

§31763. Optional settlement 3

Optional settlement 3 consists of the right to elect in writing to have a retirement allowance paid to the member until the member's death, and thereafter to have one-half of the member's retirement allowance paid to the natural person, having an insurable interest in the member's life, as the member nominates by written designation duly executed and filed with the board at the time of the member's retirement.

(Amended by Stats. 1991, Ch. 982, Sec. 4)

(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 16)

§31764. Optional settlement 4

Optional settlement 4 consists of the right to elect in writing to have a retirement allowance paid to the member until the member's death and thereafter to have other benefits as are approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the natural persons, having an insurable interest in the member's life, as the member nominates by written designation duly executed and filed with the board at the time of retirement. The designation shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

(Amended by Stats. 1991, Ch. 982, Sec. 5)

(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 17)

§31764.5. (Operative date contingent) Adjustment after election to reduce allowance with optional settlement

(a) At retirement, a member who elects an optional settlement pursuant to Section 31762, 31763, or 31764 may elect to reduce his or her allowance to provide that if the named beneficiary predeceases the member, the member's allowance shall be adjusted to the amount he or she would have been entitled to receive at retirement if his or her benefit had not been modified by an optional settlement, adjusted by any cost-of-living increases that would have been added to the monthly allowance. The adjusted allowance shall be effective on the first day of the month following the month in which notification of the beneficiary's death is received by the board.

(b) This section may not become operative if, in the opinion of the retirement board and the actuary, the allowances payable under this section would place an additional financial burden on the retirement system.

(c) This section may not become operative until the board of supervisors elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2004, Ch. 441 (AB 979), Sec. 4)

§31764.6. (Operative date contingent) Right to elect reduction and designate spouse for surviving allowance

(a) Notwithstanding Sections 31481 and 31760, optional settlement 5 consists of a retired member's right to elect in writing to have his or her retirement allowance reduced and to designate his or her spouse who is not otherwise eligible to receive a survivor allowance. The survivor allowance shall be determined on an actuarial basis by the reduction in the member's allowance and may not, in the opinion of the board and the actuary, place any additional financial burden on the retirement system.

(b) A member who elected to receive an optional settlement under Section 31762, 31763, or 31764, involving a life contingency of a beneficiary, may elect optional settlement 5 if the beneficiary predeceases the member 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.

(c) A member who married at least 12 months prior to the date this section becomes operative may file an election with the board of retirement within 60 days after the operative date. The election shall become effective the first day of the month following receipt of the election by the board. A member who fails to elect within that 60-day period shall retain the right to make an election under this section subject to the waiting period provided in subdivision (d).

(d) Except as provided in subdivision (c), the election under this section shall become effective 12 months after the date it is filed with the board, provided that neither the member nor his or her spouse dies prior to the effective date of the election.

(e) An election under this section is irrevocable.

(f) This section may not become operative until the board of supervisors elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2004, Ch. 441 (AB 979), Sec. 5)

§31764.7. (Operative date contingent) Adjustment if spouse predeceases member after electing reduction to provide spousal benefit

(a) Notwithstanding any other provision of this chapter, if a retired member elects to have his or her retirement allowance reduced pursuant to Section 31764.6 and if, thereafter, the member's spouse predeceases the member, the member's allowance shall be adjusted to the amount he or she received at retirement, adjusted by any cost-of-living increases that were or would have been added to the monthly allowance. The adjusted allowance shall be effective on the first day of the month following the month in which notification of the spouse's or beneficiary's death is received by the board.

(b) This section may not become operative if, in the opinion of the retirement board and the actuary, the allowances payable under this section would place an additional financial burden on the retirement system.

(c) This section may not become operative until the board of supervisors elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2004, Ch. 441 (AB 979), Sec. 6)

§31765. Election of retirement allowance by surviving spouse of member eligible to retire; rights of surviving children; minor children

Upon the death of a member who was eligible to retire, in circumstances in which a death benefit is payable under Article 12, if the deceased member has designated as beneficiary

the member's spouse who survives the member by not less than 30 days, such surviving spouse may elect, at any time before acceptance of any benefits from the retirement system, to receive, in lieu of the death benefit otherwise payable under Article 12, the same retirement allowance as that to which such spouse would have been entitled had such member retired on the day of the member's death and selected Optional Settlement 3. Such surviving spouse may elect in writing, before the first payment of any allowance is made, to receive in a lump sum payment all or any part of the member's accumulated additional contributions. The sum so paid shall not be included in the calculation of the annuity of the surviving spouse.

If, at the death of such spouse, the spouse is survived by one or more unmarried children of such member, under the age of 18, such retirement allowance shall continue to such child or children, collectively, until every child dies, marries, or attains age 18. If such spouse dies, either before or after the death of such member without either making such election or receiving any portion of the death benefit, and no part of the death benefit has been paid to any person, prior to the payment of any benefits, the legally appointed guardian of such children shall make the election herein provided for on behalf of such surviving children as in the guardian's judgment may appear to be in their interest and advantage and the election so made shall be binding and conclusive upon all parties in interest.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

(Amended by Stats. 1967, Ch. 1622, Sec. 2)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 52)

§31765.1. Election of retirement allowance by surviving spouse of member of system in certain counties; rights of surviving children; minor children

Upon the death of any member of a retirement system established in a county subject to the provisions of Section 31676.1 or Section 31695.1, eligible for retirement pursuant to Article 7.5, 8, or 8.7 who leaves a spouse designated as beneficiary, such surviving spouse may, in lieu of the death benefit provided for in Article 12, elect to receive a retirement allowance equal to 60 percent of the amount to which the member would have been entitled had the member retired on the date of the member's death with a retirement allowance not modified in accordance with one of the optional settlements specified in Article 11. Such surviving spouse may elect in writing, before the first payment of any allowance is made, to receive in a lump sum payment all or any part of the member's accumulated additional contributions. The sum so paid shall not be included in the calculations of the annuity of the surviving spouse.

If, at the death of such spouse, the spouse is survived by one or more unmarried children of such member, under the age of 18, such retirement allowance shall continue to such child or children, collectively, until every child dies, marries, or attains age 18. If such spouse dies, either before or after the death of such member without either making such election or receiving any portion of the death benefit, and no part of the death benefit has been paid to any person, prior to the payment of any benefits, the legally appointed guardian of such children shall make the election herein provided for on behalf of such surviving children as in the guardian's judgment may appear to be in their interest and advantage and the election so made shall be binding and conclusive upon all parties in interest.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

(Amended by Stats. 1967, Ch. 1622, Sec. 3)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 53)

§31765.2. Amount of each survivor allowance paid pursuant to Section 31765.1 on account of member who dies on or after operative date of this section; application and operative effect (Los Angeles)

Notwithstanding Section 31765.1, each survivor allowance paid pursuant to Section 31765.1 on account of a member who dies on or after the operative date of this section shall be equal to 65 percent of the monthly retirement allowance to which the deceased member would have been entitled if he or she had retired on the date of death with a retirement allowance not modified in accordance with one of the optional settlements specified in this article.

This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 11, Effective October 13, 2001, as an urgency statute)

§31765.3. Amount of survivor allowance paid on or after operative date of this section pursuant to Section 31765.1 on account of member who dies before operative date of this section; application and operative effect (Los Angeles)

(a) Notwithstanding Section 31765.1, each survivor allowance paid on or after the operative date of this section pursuant to Section 31765.1 on account of a member who dies before the operative date of this section shall be equal to 65 percent of the monthly retirement allowance to which the deceased member would have been entitled if he or she had retired on the date of death with a retirement allowance not modified in accordance with one of the optional settlements specified in this article, as adjusted for the net cost-of-living percentage increase, if any, awarded to that survivor prior to the operative date of this section.

(b) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 12, Effective October 13, 2001, as an urgency statute)

§31765.11. Contra Costa County; election of retirement allowance by spouse; rights of children (Contra Costa)

Notwithstanding Sections 31765 and 31765.1, upon the death of any member covered under Section 31751 who was either eligible for retirement or would have been entitled to disability retirement but died prior to such retirement and who leaves a spouse, such surviving spouse may, in lieu of the death benefit provided for in Article 12 (commencing with Section 31780), elect to receive a retirement allowance equal to 60 percent of the amount to which the member would have been entitled had the member retired on the date of death with a retirement allowance not modified in accordance with one of the optional settlements specified in this article.

If there is an eligible spouse, in addition to the above, 20 percent of the allowance to which the member would have been entitled shall be paid to each of the member's children. The maximum family benefit under this section shall be 100 percent of the amount to which the member would have been entitled had the member retired on the date of death with a retirement allowance not modified in accordance with one of the optional settlements specified in this article.

If there is no spouse eligible for the 60 percent allowance, but there is at least one eligible child, or if the spouse of the member dies either before or after the death of such member without either making such election or receiving any portion of the death benefit, and no part of the death benefit has been paid to any person, prior to the payment of any benefits, the legally appointed guardian of such child or children shall make the election herein provided for on behalf of such surviving child or children as the guardian's judgment may appear in

their interest and advantage and the election so made shall be binding and conclusive upon all parties in interest. If an election is made to receive the 60 percent allowance, the child, or children collectively, shall be entitled to 60 percent of the retirement allowance the member would have received.

As used in this section, "child" shall be as defined in Section 31760.11.

The provisions of this section also shall apply to the surviving spouse and children of any employee who dies as the result of injury or disease arising out of and in the course of employment prior to the first day of the calendar month when the employee normally would become a member.

The rights and privileges conferred by this section upon the surviving spouse and children of such deceased member or employee shall not be dependent upon whether they, or any of them, have been nominated by the deceased member or employee as the beneficiary of any benefits payable upon or by reason of death, but they shall be superior to, and shall supersede, the rights and claims of any other beneficiary so nominated.

(Added by Stats. 1980, Ch. 58, Sec. 12, Effective April 4, 1980)

§31768. Increase of amounts payable under Sections 31760.1, 31760.2, and 31765.1; authority of board; application to counties of the first class (Los Angeles)

Notwithstanding any other provision of this chapter to the contrary, the board may, by a resolution adopted, pursuant to both this section and Section 31792, by a majority vote and with respect only to persons who first become members on or after the effective date of the resolution, elect to increase, by 33 percent, the amounts payable pursuant to any one or more of Sections 31760.1, 31760.2, and 31765.1.

This section shall apply only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1993, Ch. 286, Sec. 1)

Article 11.5

Deferred Retirement Option Program

(Article 11.5 added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31770. Short title

This article shall be known and may be cited as the "Deferred Retirement Option Program."

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31770.1. Creation of program; conformance with federal law; severability

(a) The Deferred Retirement Option Program is hereby created to provide eligible members who elect to participate in the program access to a lump sum, or in some cases, additional monthly payments for a specified period in addition to a monthly retirement allowance.

(b) The design and administration of the Deferred Retirement Option Program shall conform to the applicable provisions of Title 26 of the United States Code and the Revenue and Taxation Code.

(c) If any provision of this article or application thereof to any person or circumstance is held invalid, that invalidity will not affect other provisions or applications of this article that can be given effect without the invalid provisions or application, and to this end the provisions of this article are severable.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31770.2. Definitions

Unless the context otherwise requires, the definitions contained in this section govern the construction of this article:

(a) "DROP" or "program" means the Deferred Retirement Option Program established by this article, as adopted by a county or district.

(b) "Election date" means the date the member elects to participate in the program.

(c) "Deferred retirement calculation date" means the date prior to the member's actual retirement date, as of which benefits under the program shall be calculated as provided in Section 31778.1.

(d) "Implementing ordinance" means the ordinance or resolution adopted by the county board of supervisors or governing board of the district, pursuant to Section 31770.3, providing for the implementation of the program in the county or district and specifying the applicable program options as provided in this article.

(e) "Participant" means any eligible safety member of the system described in Section 31469.4, 31470.2, or 31470.4 who has validly elected to participate in the program.

(f) "Program account" means the account established by the system for each participant of the program pursuant to Section 31772.

(g) "Program period" means the period of time commencing on the election date and ending on the member's retirement date, which period may not exceed 60 months of elapsed time.

(h) "Retirement date" means the date the member terminates employment and retires from the system.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31770.3. Implementing ordinance required

(a) This article, or selected provisions of this article, shall become effective in any county or district only when the county board of supervisors or governing board of the district adopts an ordinance or resolution providing for that implementation. The board of supervisors or governing board may not adopt that ordinance or resolution, and this article, or selected portions of this article, may not become effective in the county or district unless and until the actuarial analysis described in Section 31770.4 has been completed and has determined that the program, as proposed to be adopted by the county or district, will be cost neutral and agreed to in a collective bargaining agreement.

(b) Based on the actuarial analysis, the requirement of cost neutrality, and the collective bargaining agreement, the county or district shall, in the implementing ordinance, elect one of the following for each bargaining unit other than a bargaining unit whose members are described in Section 31470.4:

(1) To be subject to the provisions of this article, including the forward DROP provisions contained in Sections 31771 to 31776.5, inclusive, but excluding the actuarial equivalent DROP provisions contained in Section 31777 and excluding the backward DROP provisions contained in Sections 31778 to 31778.2, inclusive.

(2) To be subject to the provisions of this article, including the actuarial equivalent DROP provisions contained in Section 31777, but excluding the forward DROP provisions contained in Sections 31771 to 31776.5, inclusive, and excluding the backward DROP provisions contained in Sections 31778 to 31778.2, inclusive.

(3) To be subject to the provisions of this article, including the backward DROP options contained in Sections 31778 to 31778.2, inclusive, but excluding the forward DROP provisions contained in Sections 31771 to 31776.5, inclusive, and excluding the actuarial equivalent DROP provisions contained in Section 31777.

(c) With respect to a bargaining unit whose members are described in Section 31470.4, the county or district may, in the implementing ordinance, be subject only to the provisions of this article as provided in paragraph (3) of subdivision (b).

(d) The program shall become operative with respect to all safety members of the system on the date specified in the implementing ordinance.

(e) The implementing ordinance shall specify a period of time, which shall be at least four years and not more than 10 years from the date of implementation, after which an initial review of the program shall be conducted pursuant to Section 31779.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31770.4. Actuarial analysis of cost neutrality

(a) The board shall, upon the request of, and before adoption of, the implementing ordinance by the county board of supervisors or governing board of the district, cause an actuarial analysis to be conducted to determine whether the program, as proposed to be adopted, will be cost neutral. A proposed program shall be deemed to be cost neutral if, based on the applicable actuarial assumptions, it will not have a significant negative financial impact on the members, employer, or the retirement system, as specified in subdivision (b).

(b) The actuarial analysis shall take into account the impact of the proposed program on specific measures, including, but not limited to, employer contributions, the system's actuarial accrued liability, and the present value of benefits. A proposed program will not be deemed to be cost neutral if there is any anticipated increase in any of these measures attributable to the implementation of the program or if there is a decrease in the present value of benefits of more than 3 percent attributable to the implementation of the program.

(c) The actuarial analysis shall identify all cost elements expected to change due to the implementation of the program and shall include the impact of those changes. These may include, but are not limited to, cost elements such as benefit payments, expected retirement age, and the likelihood of termination or disability by those near retirement age. The analysis may not take into account items unrelated to the proposed programs, including the investment return on fund assets or the life expectancy of currently retired members.

(d) As used in this section:

(1) "Actuarial accrued liability" means the portion of the present value of benefits attributable to service before the valuation date.

(2) "Present value of benefits" means the value, as of the valuation date, of all benefits expected to be paid to current members of the system.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31770.5. Implementing ordinance; establishment of eligibility requirements

(a) The implementing ordinance shall establish the eligibility requirements for participation in the program, subject to this section and the collective bargaining agreement. The ordinance shall specify the minimum age and the minimum and maximum, if any, years of service credit required to be eligible to participate in the program, which minimum and maximum, if any, may not be less than the minimum age and service credit requirements for service retirement.

(b) Members shall be eligible to elect to participate in the program at any time after the attainment of the minimum age and years of credited service in the system specified in the implementing ordinance. Members who satisfy the eligibility requirements on the implementation date of the program, as set forth in the implementing ordinance, shall be eligible to elect to participate in the program as of the operative date of the program.

(c) Prior service purchased pursuant to this chapter and service performed by the member under another public retirement system shall be included for purposes of determining eligibility for the program to the extent provided in Section 31836.

(d) Members who have left county or district service and who have elected deferred retirement pursuant to Article 9 (commencing with Section 31700) will not be eligible to participate in the forward DROP provisions unless they return to county service during the

operative period of the program.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31770.6. Establishment of procedures; providing written information to members

(a) Upon adoption of the implementing ordinance, the retirement system shall establish procedures for notifying members of their rights under the program.

(b) Each member, before electing to participate in the program, shall be given written information regarding how benefits under the program would be calculated and a comparison of the member's anticipated benefits at retirement with and without participation in the program. All members will be advised to seek advice from professional tax and investment advisors before electing to participate in the program.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31770.7. Right to benefits exempt from execution

The right of a participant to benefits under the program is not subject to execution or any other process, except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and is unassignable except as specifically provided under this chapter.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31770.8. Rights of participants subject to laws or court orders relating to dissolution of marriage, child support, etc.

The rights of a participant or his or her spouse under the program shall be subject to any applicable provisions of law or court orders relating to dissolution of marriage, division of community property, and child or spousal support.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31771. Forward DROP provisions

The provisions of this section to Section 31776.5, inclusive, shall be referred to collectively as the "forward DROP provisions."

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31771.1. Election to participate in forward DROP provisions; form; spousal consent

(a) Any member who elects to participate in the forward DROP provisions of the program shall make the election on a form prescribed and retained by the board. On that form the member shall do all of the following:

(1) Designate a program period that will not exceed 60 months of elapsed time, agree to terminate covered employment under the system no later than the end of that designated period, and acknowledge that participation in the program is not a guarantee of continued employment for any period.

(2) Waive any claims with respect to age and other discrimination in employment laws relative to the program as are required by the employer or the system.

(3) Waive the right to disability retirement benefits based on a condition relating to an illness or injury that occurred prior to the program period. This waiver does not apply to any rights the member may have under Section 31720.5, 31720.6, or 31720.7, which rights shall remain in effect until the member receives a distribution of some or all of the balance in his or her program account.

(b) If the member is married, the member's spouse shall execute a statement, on a form prescribed by the board, acknowledging the spouse's understanding of, and agreement with, the member's election to participate in the program, together with an express statement of the spouse's understanding and agreement that benefits payable to the spouse upon the death of

the member will be reduced as a result of that participation.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31771.2. Accrual of benefits under this article; irrevocability of election; exceptions; rights and privileges; eligibility of spouse

(a) On and after the election date, the participant shall cease to accrue retirement benefits under this chapter, and instead shall begin to accrue benefits under the program pursuant to the terms of this article, which benefits shall be credited to the participant's program account pursuant to Section 31772.

(b) A member's election to participate in the program shall be irrevocable except in the following circumstances:

(1) If the member is married on the election date and if that spouse dies during the program period, the member may, within 90 days after the spouse's death, elect to revoke his or her election to participate in the program. In that case, the member's benefits shall be calculated on retirement as if the member had never entered the program.

(2) If the member elects to retire for disability under the circumstances described in Section 31774, the member's participation in the program shall cease and the member may apply for conversion of the deferred retirement allowance to a disability allowance calculated at date of entry into the program, and the employee shall retain all proceeds in the program account.

(c)(1) A participant in the program shall have all of the rights, privileges, and benefits, and is subject to all terms and conditions of active employment including, but not limited to, eligibility for other benefit programs not related to retirement benefits, seniority, accrual and use of vacation and sick leave, and pay increases.

(2) A participant shall continue to make normal member contributions under this chapter during the program period.

(d) Except as otherwise provided in Section 31773, eligibility of a spouse for any benefits, including survivor's benefits shall be based on the participant's marital status and the duration of the marriage as of the retirement date.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31771.3. Implementing ordinance; statement regarding employer contributions

The implementing ordinance shall specify, based on the results of the actuarial analysis and the requirement that the program be cost neutral, as described in Section 31770.4, whether the employer shall be required to continue to make contributions to the system with respect to the compensation of participants in the program and whether that compensation shall be included in the determination of employer contribution rates.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31772. Program account restrictions; amount credited to account

(a) A program account shall be established within the system for each participant. No system assets shall be separately segregated for any program account. A participant may not have a claim on any specific assets of the system.

(b) A participant's program account shall be credited with an amount equal to the service retirement allowance the member would have received if the member had retired for service on the election date and had selected an unmodified allowance, subject to the following:

(1) Sick leave and vacation time accrued by the member as of the election date may not be included in the calculation of service credit or final compensation for the retirement time where the member enters the program, except as otherwise provided in a collective bargaining agreement.

(2) The provisions of Article 15 (commencing with Section 31830) may not apply in

the calculation of the participant's final compensation.

(c) Subject to the results of the actuarial analysis and the requirement that the program be cost neutral, the implementing ordinance may provide that some or all of the following amounts shall also be credited monthly to the participant's program account:

(1) Some or all of the normal member contributions under this chapter made by, or on behalf of, the participant during the program period.

(2) Some or all of the employer contributions to the system made on account of the participant during the program period.

(3) Some or all of the annual cost-of-living adjustments the member would have received if the member had retired for service on the election date and selected an unmodified allowance.

(4) Interest. If the implementing ordinance provides for the crediting of interest, it shall be credited semiannually at a rate that is equal to: (A) the interest rate, if any, applicable to employee contributions to the system, or (B) a fixed rate specified in the implementing ordinance, or (C) a rate determined semiannually by the retirement board.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31772.1. Statement of account

The board shall provide a statement to the participant that displays the value or balance of the participant's program account and summarizes any credits to the account or other transactions that occurred after the immediately preceding valuation date. The statement of account shall be provided at least once annually to each participant, and may be provided more often.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31773. Participant dying during program period; procedure

(a) If a participant dies during the program period, he or she shall be deemed to have died while eligible for retirement and his or her benefits shall be calculated as if in active service, except as provided in subdivisions (b) and (c).

(b) Benefits under Article 12 (commencing with Section 31780) or, if applicable, Section 31765, 31765.1, or 31765.11 shall be calculated as if the participant had died on the election date. Notwithstanding the foregoing, eligibility of a spouse for any benefits shall be based on the participant's marital status and the duration of the marriage as of the actual date of death.

(c) The balance in the participant's program account shall be distributed pursuant to Section 31776.4.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31774. Participant becoming eligible for disability retirement during program period; procedure

If a participant becomes eligible for disability retirement due to an injury or illness occurring during the program period or pursuant to Section 31720.5, 31720.6, or 31720.7, the participant shall elect to either:

(a) Retire for disability, in which case the participant may apply for conversion of the deferred retirement allowance to a disability allowance calculated at the election date and the employee shall retain all of the proceeds in the program account.

(b) Retire for service, in which case the participant shall waive any rights he or she may have to disability retirement benefits, except as provided in Section 31720.5, 31720.6, or 31720.7, and shall be entitled to a distribution of the balance in his or her program account and a monthly retirement allowance, as provided in Section 31776.1.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31775. Termination of participant in program

Participation in the program shall be terminated, and the member will not have a right or claim to any continuing benefits under the program upon the first occurrence of any of the following events:

(a) Revocation of participation, as provided in subdivision (b) of Section 31771.2.

(b) Involuntary termination of employment. If a termination for cause is reversed, a member's participation in the program shall be reinstated and the member shall be made whole for the duration of the original program period, as designated by the member upon entry into the program.

(c) Commencement of disability retirement benefits, as provided in subdivision (a) of Section 31774.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31776. Completion of participation and entitlement to benefits

Participation in the program shall be completed and the participant shall be entitled to benefits under the program upon the first occurrence of either of the following during the program period:

(a) Retirement of the participant for service.

(b) Death of the participant.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31776.1. Termination of employment and retirement from service; procedure

Upon termination of employment and retirement for service under the system, a participant shall:

(a) Receive a distribution, in the manner prescribed in Section 31776.3, of the balance in the participant's program account.

(b) Begin receiving a monthly retirement allowance in an amount calculated pursuant to Section 31776.2.

(c) Waive the right to any disability retirement benefits from the system, except for postretirement disability rights. This waiver does not include any rights the member may have pursuant to Sections 31720.5, 31720.6, and 31720.7.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31776.2. Monthly allowance; amount

The participant's monthly allowance shall be an amount equal to the monthly allowance the participant would have received if he or she had retired for service on the election date, subject to the following:

(a) Any unused sick leave or vacation leave that accrued as of the election date and was not used by the participant during the program period may be included in the calculation of the participant's allowance in accordance with a collective bargaining agreement, subject to other retirement rules for members not participating in the program.

(b) The participant's allowance may be adjusted in accordance with the implementing ordinance for some or all of the cost-of-living adjustments that the participant would have received during the program period as if the participant had retired on the election date.

(c) The participant's allowance shall be adjusted based on any election by the participant of any optional retirement allowance pursuant to Article 11 (commencing with Section 31760). The adjustment shall be based on the ages of the participant and, if applicable, the participant's spouse or beneficiary as of the retirement date.

(d) The provisions of Article 15 (commencing with Section 31830) shall apply for purposes of calculating the participant's allowance. The participant shall be deemed to have

retired on the retirement date for purposes of determining whether the member retired concurrently under both systems as required under this article.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31776.3. Methods of distribution

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

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

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

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

(c) Notwithstanding any other provision of this article, a participant, nonparticipant spouse, or beneficiary may not be permitted to elect a distribution under this article that does not satisfy the requirements of Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder.

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

(1) In the case of a lump-sum distribution to the participant, the lump-sum payment shall be made, at the participant's option, not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 72 years of age, or an age determined by the Internal Revenue Service, or the calendar year in which the participant terminates all employment for the employer.

(2) In the case of a distribution to the participant in the form of installment payments or an annuity, payment shall begin, at the participant's option, not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 72 years of age, or an age determined by the Internal Revenue Service, or the calendar year in which the participant terminates all employment subject to coverage by the plan.

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

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

(B) December 31 of the calendar year in which the participant would have attained 72 years of age or an age determined by the Internal Revenue Service.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

(Amended by Stats. 2004, Ch. 183 (AB 3082), Sec. 171)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 54)

§31776.4. Designation of beneficiaries

(a) A participant may designate a person or persons as beneficiaries of the balance in the participant's program account at any time during the program period. Any beneficiary or beneficiaries shall be designated on a form prescribed by the board, signed by the participant, and filed with the board.

(b) The participant's beneficiary designation may not be given effect and shall be overridden to the extent that designation would impair the rights of any surviving spouse or surviving minors under applicable federal or state law.

(c) Unless otherwise provided in the beneficiary designation form, each designated beneficiary shall be entitled to equal shares of the lump-sum distribution that shall be payable from the participant's program account upon the death of the participant.

(d) The nomination of a beneficiary or beneficiaries under this section may be revoked at the pleasure of the person who made the nomination and a different beneficiary or beneficiaries may be nominated by a written designation duly executed and filed with the board.

(e) If the participant dies without a valid beneficiary designation on file, or if no designated beneficiary survives the participant, any balance remaining in the participant's account shall be payable to the participant's estate.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31776.5. Final compensation

The final compensation calculated under Section 31776.2 shall be the member's final compensation for purposes of calculating any reciprocal benefits due the member from another retirement system pursuant to Article 15 (commencing with Section 31830).

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31777. Actuarial equivalent DROP provisions

(a) The provisions of this section shall be referred to as the "actuarial equivalent DROP provisions."

(b) A member who retires for service on or after the operative date of the program may elect, on a form prescribed by the board, to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to this section in lieu of the monthly allowance that would otherwise be payable to the member pursuant to this chapter.

(c) A member who has elected to participate in the forward DROP provisions of the program, pursuant to Sections 31771 to 31776.5, inclusive, or the backward DROP provisions of the program, pursuant to Sections 31778 to 31778.2, inclusive, is not eligible to make the election provided under this section.

(d)(1) A member who makes the election described in this section shall receive a one-time lump-sum payment at the time of retirement in an amount chosen by the member that may not exceed the maximum amount specified in the implementing ordinance, as provided in subdivision (e).

(2) The amount of the lump-sum payment shall be calculated in accordance with the implementing ordinance.

(e) The implementing ordinance shall prescribe one of the following amounts as the maximum amount of the lump-sum payment under this section:

(1) The aggregate amount of the member's contributions to the system, plus interest if applicable.

(2) The actuarial present value of 20 percent of the monthly allowance otherwise payable to the member under this chapter.

(3) An amount that would cause the member's monthly allowance under this chapter

to be actuarially reduced to an amount equal to 50 percent of the member's final compensation.

(f) Notwithstanding any other provision of this chapter, a member who makes the election described in this section shall receive a monthly allowance pursuant to this chapter that shall be actuarially reduced to reflect the lump-sum amount paid under subdivision (d).

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31778. Backward DROP provisions; election

The provisions of this section through those of Section 31778.2, inclusive, shall be referred to collectively as the "backward DROP provisions." A member who retires on or after the effective date of the program may elect upon application for service or disability retirement, on a form prescribed by the board, to receive:

(a) A backward DROP payment calculated under Section 3l778.1.

(b) A monthly retirement allowance calculated as if the member had retired on the deferred retirement calculation date, except that the retirement formula applicable to the member's service as of the election date shall be used to calculate the amount of the member's monthly retirement allowance.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31778.1. One-time lump-sum payment

A member who makes the election described in Section 31778 shall receive a one-time lump-sum payment upon retirement in an amount as calculated below.

(a) A participant's program account shall be credited with an amount equal to the retirement allowance the member would have received if the member had retired on the deferred retirement calculation date and had selected an unmodified allowance.

(b) The cost-of-living adjustments that would have been applicable during that period shall be included, applying the deferred retirement calculation date as the base year for the adjustment.

(c) All of the normal contributions that the member made under this chapter, plus interest applicable during the period from the deferred retirement calculation date to the election date.

(d) Some or all of the employer contributions made on account of the participant under this chapter, as agreed to in a collective bargaining agreement, plus interest applicable for the period from the deferred retirement calculation date to the election date.

(e) The member's program payment shall be the amount calculated under subdivision (a) multiplied by the number of months in the deferred retirement period, plus the cost-of-living adjustment calculated under subdivision (b), the member contributions calculated under subdivision (c), and the employer contributions calculated under subdivision (d). The amount shall also include interest at a rate agreed upon in the collective bargaining agreement and adopted by the board of retirement, applicable to the amounts derived from subdivisions (a) and (b), for the period from the deferred retirement calculation date to the election date. The program payment shall also be credited with interest at a rate established by the board for the period from the election date until the payment is made.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31778.2. Participant dying between deferred calculation date and election date; procedure

(a) If a participant dies during the period from the deferred calculation date to the election date, he or she shall be deemed to have died while eligible for the deferred retirement option and the participant's eligible spouse or other beneficiary shall be qualified to elect the deferred retirement option under Section 31778 as if the participant were still living, except as provided in subdivisions (b) and (c).

(b) Benefits under Article 12 (commencing with Section 31780) or, if applicable, Section 31765, 31765.1 or 31765.11 shall be calculated as if the participant had died on the deferred retirement calculation date.

Notwithstanding the foregoing, eligibility of a spouse for any benefits shall be based on the participant's marital status and the duration of the marriage as of the actual date of death.

(c) The balance in the participant's program account shall be distributed pursuant to Section 31778.3.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31778.3. Designation of beneficiaries

(a) A participant may designate a person or persons as beneficiaries of the participant's program account at any time during the period from the deferred retirement calculation date to the election date. The beneficiary or beneficiaries shall be designated on a form prescribed by the board, signed by the participant, and filed with the board.

(b) The participant's beneficiary designation may not be given effect, and shall be overridden, to the extent that designation would impair the rights of any surviving spouse or surviving minors under applicable federal or state law.

(c) Unless otherwise provided in the beneficiary designation form, each designated beneficiary shall be entitled to equal shares of the lump-sum distribution that shall be payable from the participant's program account upon the death of the participant.

(d) The nomination of a beneficiary or beneficiaries under this section may be revoked at the pleasure of the person who made the nomination, and a different beneficiary or beneficiaries may be nominated by a written designation duly executed and filed with the board.

(e) If the participant dies without a valid beneficiary designation on file, or if no designated beneficiary survives the participant, the participant's account shall be payable to the participant's estate.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31778.4. Termination of employment and retirement from system; member's program payment

Upon termination of employment and retirement from the system, a member who has elected to participate in the program shall receive the member's program payment, as calculated pursuant to Section 31778.1 and in accordance with the distribution provisions of Sections 31776.3, 31776.4, and 31776.5.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31779. Actuarial analysis of cost impact; review and consideration

(a) After the program has been in effect for a period of at least four years and not more than 10 years, as specified in the implementing ordinance, or up to one year prior to the end of that specified period, the board shall cause an actuarial analysis of the cost impact of the program to be prepared and presented to the board of supervisors or governing body of the district for its review and consideration.

(b) If the actuarial analysis discloses that the program has not been cost neutral, the board of supervisors or governing board shall, by ordinance or resolution pursuant to a collective bargaining agreement with the bargaining unit, either:

(1) Discontinue the program, subject to Section 31779.1.

(2) Modify the program in a manner consistent with the actuarial analysis and the provisions of this article so that the program will be cost neutral.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31779.1. Discontinuance of program; rights of participants

The rights of a participant who has retired under the program, whose deferred retirement calculation date, or whose program period is in effect at the time the program is discontinued may not be affected by the discontinuance of the program and that participant shall remain subject to the provisions of the program as it existed on the participant's election date.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31779.2. Modification of program; participants' right to elect

If the program is modified pursuant to paragraph (2) of subdivision (b) of Section 31779, participants who entered, or who were eligible for, the program prior to the effective date of the modification shall be entitled to elect whether to become subject to the modified provisions of the program or to remain subject to the program as it existed on the participant's deferred retirement calculation date or election date, whichever occurred first.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

§31779.3. Periodic actuarial analysis of cost impact

As long as the program remains in effect, either as originally adopted or as modified pursuant to paragraph (2) of subdivision (b) of Section 31779, the board of retirement shall cause an actuarial analysis of the cost impact of the program to be prepared as provided in Section 31779 at the end of each successive period specified in the implementing ordinance or subsequently adopted by ordinance or resolution, and the board of supervisors or governing body may take the actions described in Section 31779 as appropriate based on the outcome of that analysis.

(Added by Stats. 2003, Ch. 897 (SB 274), Sec. 1)

Article 12

Death Benefit

(Article 12 added by Stats. 1947, Ch. 424, Sec. 1)

§31780. Liability for death benefit; payment

Upon the death before retirement of a member while in service or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from discontinuance of service, or within one month after discontinuance of service unless the member's accumulated contributions have been paid to the member pursuant to Section 31628, the retirement system is liable for a death benefit which shall be paid:

(a) As provided in Section 31765 or 31765.1 or 31765.11 or 31781.1 or 31787, if the surviving spouse or guardian of one or more of the surviving children of the member so elects, or

(b) If no election is made pursuant to Section 31765, or 31765.1, or 31765.11, or 31781.1, or 31787 and no person is entitled to a survivor's allowance pursuant to Article 15.5 (commencing with Section 31841) or Article 16 (commencing with Section 31861) to such person as he nominates by written designation duly executed and filed with the board, before the death of the member, or

(c) If no such election is made, and a parent as defined in Article 15.5 but no other person is entitled to a survivor's allowance pursuant to Article 15.5 or 16 and a surviving spouse or child is designated as beneficiary, to such surviving spouse or child, or

(d) If no such election is made, no person is entitled to a survivor's allowance pursuant

to Article 15.5 or 16, and a member has not nominated a beneficiary, to his estate.

(Amended by Stats. 1980, Ch. 58, Sec. 13, Effective April 4, 1980)

§31780.1. Survivor benefits; unmarried children; determination of marital status; change in marital status

A child eligible to receive a survivor benefit under Section 31760.1, 31781.1, 31786, or 31787 shall be considered unmarried if the child is not married as of the date the member dies, whether or not the child was previously married. If the child thereafter marries, eligibility for the survivor benefit shall terminate, and the benefit shall not be reinstated if the child subsequently returns to unmarried status.

(Added by Stats. 1996, Ch. 493 (SB 792), Sec. 7)

§31780.2. Domestic partners; Benefits; Operative date contingent

(a) Any benefits accorded to a spouse pursuant to this article and Article 11 (commencing with Section 31760), Article 15.5 (commencing with Section 31841), Article 15.6 (commencing with Section 31855), and Article 16 (commencing with Section 31861), or any of them, may be accorded to a domestic partner, as defined in Section 297 of the Family Code, who is registered with the Secretary of State pursuant to Division 2.5 (commencing with Section 297) of the Family Code. The county may also require the member and the member's domestic partner to have a current Affidavit of Domestic Partnership, in the form adopted by the county board of supervisors, on file with the county for at least one year prior to the member's retirement or death prior to retirement.

(b) If a member described in subdivision (a) has a surviving dependent child, the surviving dependent child shall receive the death and survivor's allowance until 18 years of age or until married, whichever occurs earlier, or until 22 years of age if enrolled as a full-time student in an accredited educational institution. When the member's surviving dependent child reaches 18 years of age or is no longer a dependent, whichever occurs earlier, or reaches 22 years of age if enrolled as a full-time student in an accredited educational institution, then the benefits accorded to a spouse, as specified in subdivision (a), may be accorded to a domestic partner pursuant to this section. However, if a surviving dependent child elects to receive a lump-sum payment, the lump-sum payment shall be shared among any surviving dependent children and the domestic partner, pursuant to this section, in a proportional manner.

(c) This section is not operative unless and until the county board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county. In a county of the 10th class, as defined in Sections 28020 and 28031, the county board of supervisors may implement the benefits described in this section as determined through the collective bargaining process and based on actuarial cost estimates.

(d) This section shall not apply to any member whose death occurs on or after January 1, 2009.

(Added by Stats. 2001, Ch. 893 (AB 25), Sec. 9.5)

(Amended by Stats. 2003, Ch. 79 (AB 266), Sec. 1)

(Amended by Stats. 2003, Ch. 780 (SB 85), Sec. 1)

(Amended by Stats. 2008, Ch. 197 (AB 2673), Sec. 1)

§31781. Death benefit; elements

The death benefit shall consist of:

(a) The member's accumulated contributions.

(b) An amount, provided from contributions by the county or district, equal to one-twelfth of the annual compensation earnable or pensionable compensation as defined in Section 7522.34, whichever is applicable, by the deceased during the 12 months immediately

preceding the member's death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of such annual compensation. The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 8)

(Amended by Stats. 2022, Ch. 231 (AB 1824), Sec. 18)

§31781.01. Contra Costa County; death benefit; elements (Contra Costa)

Notwithstanding Section 31781, the death benefit of a member covered under Section 31751 shall consist of:

(a) The member's accumulated contributions.

(b) A lump sum of two thousand dollars ($2,000) offset by any lump-sum death payment made under the federal Social Security Act.

(Added by Stats. 1980, Ch. 58, Sec. 14, Effective April 4, 1980)

§31781.1. Optional death allowance; election by surviving spouse; persons to whom paid; minor children

(a) If a member of a retirement system established in a county subject to the provisions of Section 31676.1 would have been entitled to retirement in the event of a non-service-connected disability, but dies as the result of an injury or illness prior to retirement, the surviving spouse of the member shall have the right to elect, by written notice filed with the board, to receive and be paid in lieu of the death benefit provided in Sections 31780 and 31781, an "optional death allowance."

(b) The allowance shall consist of a monthly payment equal to 60 percent of the monthly retirement allowance to which the deceased member would have been entitled if the member had retired by reason of non-service-connected disability as of the date of the member's death.

(c) If the surviving spouse elects to receive the "optional death allowance" the payments due for this allowance shall be retroactive to the date of the deceased member's death, and shall continue throughout the life of the spouse.

(d) If the surviving spouse elects to receive the "optional death allowance," and thereafter dies leaving an unmarried surviving child or unmarried children of the deceased member under the age of 18 years, the "optional death allowance" shall thereafter be paid to those surviving children collectively until each child dies, marries, or reaches the age of 18 years. The right of any child to the allowance shall cease upon the child's death or marriage, or upon reaching the age of 18 years, and the entire amount of the allowance shall thereafter be paid collectively to each of the other qualified children.

(e) If the deceased member leaves no surviving spouse but leaves an unmarried child or children under the age of 18 years, the legally appointed guardian of the child or children shall make the election provided in this section on behalf of the surviving child or children that, in the guardian's judgment, is in the best interests of the surviving child or children. The election made shall be binding and conclusive upon all parties in interest.

(f) The rights and privileges conferred by this section upon the surviving spouse and each child of the deceased member are not dependent upon whether any of these persons have been nominated by the deceased member as the beneficiary of any death benefits and shall supersede the rights and claims of any other beneficiary so nominated.

(g) Notwithstanding any other provisions of this section, the benefits otherwise payable to each child of the member shall be paid to each child up to the 22nd birthday of the child if the child remains unmarried and is regularly enrolled as a full-time student in an accredited school as determined by the board.

(h) For purposes of this section, "child" means a natural or adopted child of the

deceased member, or a stepchild living or domiciled with the deceased member at the time of the member's death.

(Added by Stats. 1957, Ch. 1161, Sec. 5)
(Amended by Stats. 1967, Ch. 1622, Sec. 4)
(Amended by Stats. 2003, Ch. 840 (AB 933), Sec. 2)
(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 55)

§31781.2. Deferred death benefits; children's benefits; minor children

In lieu of accepting in cash the death benefit payable under Section 31781 or 31781.01, the surviving spouse of a member who dies prior to reaching the minimum retirement age and who at the date of the member's death has 10 or more years of service to the member's credit, shall have the option to leave the amount of the death benefit on deposit in the retirement system until the earliest date when the deceased member could have retired had the member lived, and at that time receive the retirement allowance provided for in Section 31765, 31765.1, or 31765.11, whichever is applicable.

If, at the death of the spouse, the spouse is survived by one or more unmarried children of the member, under the age of 18 years, the retirement allowance shall continue to the child or children, collectively, until every child dies, marries, or attains the age of 18 years. If the spouse dies, either before or after the death of the member, without either making the election or receiving any portion of the death benefit, and no part of the death benefit had been paid to any person, prior to the payment of any benefits, the legally appointed guardian of the children shall make the election herein provided for on behalf of the surviving children as, in the guardian's judgment, may appear to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

(Amended by Stats. 1980, Ch. 58, Sec. 15, Effective April 4, 1980)
(Amended by Stats. 2005, Ch. 22 (SB 1108))
(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 56)
(Amended by Stats. 2021, Ch. 186 (SB 634), Sec. 17)

§31781.3. Combined benefit; member who dies in service after five years or as result of service-connected injury or disease; election by surviving spouse

The surviving spouse of a member who dies in service after five years of service or as a result of service-connected injury or disease may elect, in lieu of the death benefit in Section 31781 or the life annuity provided in Section 31781.1 or 31787, the benefit that is the sum of both of the following:

(a) An amount, provided from contributions by the county or district, equal to one-twelfth of the annual compensation earnable or pensionable compensation as defined in Section 7522.34, whichever is applicable, by the deceased during the 12 months immediately preceding his or her death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of that compensation.

(b) A monthly allowance as provided in Section 31781.1 or 31787 reduced by a monthly amount which is the actuarial equivalent of the amount in subdivision (a) as applied to the life of the surviving spouse.

(Amended by Stats. 1970, Ch. 729, Sec. 1)
(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 9)

§31781.11. Increase in death benefits; resolution adopted by majority vote (Los Angeles)

The board of supervisors of a county of the first class as described by Sections 28020 and 28022 may, by resolution adopted by a majority vote, increase the amounts of the death benefits payable pursuant to Sections 31760.1, 31765.1, 31781.1, and 31785, with respect to a death occurring on or after the date this section becomes operative in a county, up to the amount of the monthly allowance to which the deceased member was or would have been entitled as of the date of his or her death.

(Added by Stats. 1985, Ch. 890, Sec. 1)

§31781.12. Amount of allowance paid pursuant to Section 31781.1 on account of member who dies on or after operative date of this section; application and operative effect (Los Angeles)

Notwithstanding Section 31781.1, each allowance paid pursuant to Section 31781.1 on account of a member who dies on or after the operative date of this section shall be equal to 65 percent of the monthly retirement allowance to which the deceased member would have been entitled, without modification in accordance with one of the optional settlements specified in this article, if he or she had retired, or been retired, by reason of a nonservice-connected disability as of the date of death.

This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 13, Effective October 13, 2001, as an urgency statute)

§31781.13. Amount of allowance paid on or after operative date of this section pursuant to Section 31781.1 on account of member who dies before operative date of this section; application and operative effect (Los Angeles)

(a) Notwithstanding Section 31781.1, each allowance paid on or after the operative date of this section pursuant to Section 31781.1 on account of a member who dies before the operative date of this section shall be equal to 65 percent of the monthly retirement allowance to which the deceased member would have been entitled, without modification in accordance with one of the optional settlements specified in this article, if he or she had retired, or been retired, by reason of a nonservice-connected disability as of the date of death, adjusted for the net cost-of-living percentage increase, if any, awarded to that survivor prior to the operative date of this section.

(b) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 14, Effective October 13, 2001, as an urgency statute)

§31781.31. Contra Costa County; member who dies in service after 10 years or as result of service-connected injury or disease; combined benefit; election by surviving spouse

Notwithstanding Sections 31781.1 and 31781.3, the surviving spouse of a member subject to Section 31751 who dies in service after 10 years of service, or as a result of service-connected injury or disease, may elect, in lieu of the life annuity provided in Section 31765.11 or the death benefit provided in Section 31781.01, the benefit that is the sum of both of the following:

(a) An amount, provided from contributions by the county or district, equal to one-twelfth of the annual compensation earnable or pensionable compensation as defined in

Section 7522.34, whichever is applicable, by the deceased during the 12 months immediately preceding his or her death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of that compensation.

(b) A monthly allowance as provided in Section 31765.11 reduced by a monthly amount which is the actuarial equivalent of the amount in subdivision (a) as applied to the life of the surviving spouse.

(Added by Stats. 1980, Ch. 58, Sec. 16, Effective April 4, 1980)

(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 10)

§31782. Revocation of nomination of beneficiary

The nomination of a beneficiary under this system, other than nominations under optional settlements 2, 3 and 4, may be revoked at the pleasure of the person who made it and a different beneficiary nominated by written designation duly executed and filed with the board.

(Amended by Stats. 1953, Ch. 789, Sec. 11)

§31783. Payment of funeral expenses in absence of beneficiary; effect

If the nominated beneficiary cannot be found by the board, or if the nominated beneficiary is the estate of the deceased person, the board in its discretion may pay to the undertaker who conducted the funeral all or a portion of the amount payable as a death benefit, but not more than the funeral expenses of the deceased person as evidenced by the sworn itemized statement of the undertaker and by such other documents as the board may require.

Payment so made is a full discharge of the board and system for the amount so paid.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31783.5. Unclaimed benefits; location of claimants; holding period; deposits to reserve fund; authority to return

(a) Whenever a person or estate entitled to payment of a member's accumulated contributions or any other benefit fails to claim the payment or cannot be located, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) The board shall attempt to locate the claimant through such means as the board in its sound discretion deems reasonable including, but not limited to, a registered or certified letter, return receipt requested, mailed to the last known address of the claimant.

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivision (a) shall be held for the claimant. If the amounts are not claimed within five years after the last attempted contact with the claimant, the amounts shall be deposited in and become a part of the pension reserve fund. The board may at any time after transfer of unclaimed amounts, upon receipt of information satisfactory to it, authorize the return of amounts so held in reserve to the credit of the claimant. Those amounts shall be paid only to claimants who have not yet attained the age of mandatory distribution under the Internal Revenue Code.

(Added by Stats. 1997, Ch. 43 (SB 419), Sec. 3)

§31784. Election of installment payments; lump sum payment on death of beneficiary

The person to whom the whole or any part of a death benefit is payable may, at any time before payment thereof, elect in writing to have such death benefit or part thereof paid over a period not to exceed 10 years in monthly installments, plus interest on the unpaid balance thereof, at a rate to be determined by the board. If such person dies before all such installments are paid, the board shall pay the balance in one lump sum to his estate or person entitled to receive his property.

(Added by Stats. 1951, Ch. 575, Sec. 1)

§31785. Continuance of allowance to family of deceased safety member of retirement system of certain counties; restrictions; payment in cases of death prior to January 1, 1952; minor children

Upon the death of any safety member, after retirement for service or non-service-connected disability from a retirement system established in a county subject to the provisions of Section 31676.1 or 31695.1, 60 percent of the member's retirement allowance if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued throughout life to the member's surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if the surviving spouse dies before every child of the deceased safety member attains the age of 18 years, then the allowance which the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under that age, collectively, to continue until every child dies or attains that age; provided, that no child shall receive any allowance after marrying or attaining the age of 18 years. No allowance, however, shall be paid under this section to a surviving spouse unless the surviving spouse was married to the safety member at least one year prior to the date of the member's retirement.

Any qualified surviving spouse or children of a member of a pension system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200), who shall have been retired on or before December 31, 1951, shall be paid a retirement allowance pursuant to the provisions of this section. In cases where the death of a member occurred prior to January 1, 1952, the payment of the retirement allowance to the qualified surviving spouse or children shall be made effective on January 1, 1952.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

The superseding rights pursuant to this section shall not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(Amended by Stats. 1967, Ch. 1622, Sec. 6)

(Amended by Stats. 1998, Ch. 132 (SB 2137), Sec. 5)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 57)

§31785.1. Continuance of retirement allowance to surviving spouse or children of deceased safety member; conditions

(a) Notwithstanding Section 31481 or 31785, upon the death of any safety member, after retirement for service or non-service-connected disability from a retirement system established in a county pursuant to this chapter, 60 percent of the safety member's retirement allowance if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued to the member's surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if the surviving spouse dies before every child of the deceased safety member attains the age of 18 years, then the allowance that the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under that age, collectively, to continue until each child dies or attains that age. However, no child may receive any allowance after marrying or attaining the age of 18 years.

(b) No allowance may be paid under this section to a surviving spouse unless the surviving spouse was married to the safety member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death.

(c) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an

accredited school as determined by the board.

(d) No allowance may be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31785.

(e) The superseding rights pursuant to this section do not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(f) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the resolution, as of which the resolution and this section shall be operative in the county.

(Added by Stats. 1986, Ch. 849, Sec. 2)

(Amended by Stats. 1999, Ch. 161 (SB 670), Sec. 2)

(Amended by Stats. 2002, Ch. 875 (AB 2060), Sec. 2)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 58)

§31785.4. Amount of survivor allowance paid pursuant to Section 31785 on account of safety member who retires on or after operative date of this section; application and operative effect (Los Angeles)

Notwithstanding Section 31785, each survivor allowance paid pursuant to Section 31785 on account of a safety member who retires on or after the operative date of this section shall be equal to 65 percent of the member's monthly retirement allowance, if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760).

This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 15, Effective October 13, 2001, as an urgency statute)

§31785.5. Amount of survivor allowance paid on or after operative date of this section pursuant to Section 31785 on account of safety member who retires before operative date of this section; application and operative effect (Los Angeles)

(a) Notwithstanding Section 31785, each survivor allowance paid on or after the operative date of this section pursuant to Section 31785 on account of a safety member who retires before the operative date of this section shall be equal to 65 percent of the member's monthly retirement allowance, if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), as adjusted for the net cost-of-living percentage increase, if any, awarded to that survivor prior to the operative date of this section.

(b) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (AB 399), Sec. 16, Effective October 13, 2001, as an urgency statute)

§31786. Continuance of allowance to family of deceased member retired for service-connected disability; restrictions; minor children

Upon the death of any member after retirement for service-connected disability, the member's retirement allowance as it was at the member's death if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued throughout life to the member's surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if the surviving spouse dies before every child

of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under said age, collectively, to continue until every such child dies or attains said age; provided, that no child shall receive any allowance after marrying or attaining the age of 18 years. No allowance, however, shall be paid under this section to a surviving spouse unless the surviving spouse was married to the member prior to the date of the member's retirement.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

(Amended by Stats. 1967, Ch. 1622, Sec. 7)
(Amended by Stats. 1998, Ch. 132 (SB 2137), Sec. 7)
(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 59)

§31786.1. Continuance of retirement allowance to surviving spouse or children of deceased member; conditions

(a) Notwithstanding Section 31481 or 31786, upon the death of any member after retirement for service-connected disability, the member's retirement allowance as it was at the member's death if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued to the member's surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if the surviving spouse dies before every child of the deceased member attains the age of 18 years, then the allowance that the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under that age, collectively, to continue until each child dies or attains that age. However, no child may receive any allowance after marrying or attaining the age of 18 years.

(b) No allowance may be paid under this section to a surviving spouse unless the surviving spouse was married to the member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death.

(c) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

(d) No allowance may be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31786.

(e) The superseding rights pursuant to this section do not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(f) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the resolution, as of which the resolution and this section shall be operative in the county.

(Added by Stats. 1986, Ch. 849, Sec. 3)
(Amended by Stats. 1999, Ch. 161 (SB 670), Sec. 3)
(Amended by Stats. 2002, Ch. 875 (AB 2060), Sec. 3)
(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 60)

§31787. Optional death allowance; surviving spouse or children; election

(a) If a member would have been entitled to retirement in the event of a service-connected disability, but dies prior to retirement as the result of injury or disease arising out of and in the course of the member's employment, the surviving spouse of the member shall have

the right to elect, by written notice filed with the board, to receive and be paid in lieu of the death benefit provided for in Sections 31780 and 31781, an optional death allowance.

(b) The optional death allowance shall consist of a monthly payment equal to the monthly retirement allowance to which the deceased member would have been entitled if the member had retired by reason of a service-connected disability as of the date of the member's death.

(c) If the surviving spouse elects to receive the optional death allowance, the payments due for this allowance shall be retroactive to the date of the deceased member's death, and shall continue throughout the life of the spouse.

(d) If the surviving spouse elects to receive the optional death allowance, and thereafter dies leaving an unmarried surviving child or unmarried children of the deceased member under the age of 18 years, the optional death allowance shall thereafter be paid to those surviving children collectively until each child dies, marries, or reaches the age of 18 years. The right of any child to the allowance shall cease upon the child's death or marriage, or upon reaching the age of 18 years, and the entire amount of the allowance shall thereafter be paid collectively to each of the other qualified children.

(e) If the deceased member leaves no surviving spouse but leaves an unmarried child or children under the age of 18 years, the legally appointed guardian of the child or children shall make the election provided in this section on behalf of the surviving child or children that, in the guardian's judgment, is in the best interests of the surviving child or children. The election made shall be binding and conclusive upon all parties in interest.

(f) The rights and privileges conferred by this section upon the surviving spouse and each child of the deceased member are not dependent upon whether any of those persons have been nominated by the deceased member as the beneficiary of any death benefits and shall supersede the rights and claims of any other beneficiary so nominated.

(g) Notwithstanding any other provision of this section, the benefits otherwise payable to each child of the member shall be paid to each child up to the 22nd birthday of the child if the child remains unmarried and is regularly enrolled as a full-time student in an accredited school as determined by the board.

(h) For purposes of this section, "child" means a natural or adopted child of the deceased member, or a stepchild living or domiciled with the deceased member at the time of the member's death.

(Added by Stats. 2000, Ch. 497 (SB 2008), Sec. 3)

(Amended by Stats. 2003, Ch. 840 (AB 933), Sec. 3)

Section 4 of Stats. 2003, Ch. 840 (AB 933) provides that this act shall apply retroactively to the survivors of a deceased person who dies or is killed in the line of duty on or after January 1, 2001.

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 61)

§31787.5. Special death benefit; additional amount for children

(a) A surviving spouse of a member who is killed in the performance of duty or who dies as the result of an accident or an injury caused by external violence or physical force, incurred in the performance of the member's duty, now or hereafter entitled to receive a death allowance under Section 31787, shall be paid an additional amount for each of the member's children during the lifetime of the child, or until the child marries or reaches the age of 18 years, as follows, subject to the limitation in subdivision (b):

(1) For one child, 25 percent of the allowance provided in Section 31787.

(2) For two children, 40 percent of the allowance provided in Section 31787.

(3) For three or more children, 50 percent of the allowance provided in Section 31787.

(b) If a benefit payable under this section, when added to a benefit payable under Section 31787, exceeds the maximum benefit payable by a tax-qualified pension plan under the Internal Revenue Code (26 U.S.C.A. Sec. 401 et. seq.), the benefit payable under this section

shall be reduced to the amount required to meet that benefit limit.

(c) If the surviving spouse does not have legal custody of the member's children, the allowance provided by this section shall be payable to the person to whom custody of the children has been awarded by a court of competent jurisdiction for each child during the lifetime of the child, or until the child marries or reaches the age of 18 years.

(d) The allowance provided by this section shall be payable to the surviving spouses of members whose duties consist of active law enforcement or active fire suppression or any other class or group of members as the retirement board shall fix. The allowance provided by this section is not payable to the surviving spouses of members described in Section 31469.2.

(e) Any child whose eligibility for an allowance pursuant to this section commenced on or after October 1, 1965, shall lose that eligibility effective on the date of the child's adoption.

(f) This section shall become operative in any county, which has adopted the provisions of this chapter but which has not previously adopted the provisions of this section on October 1, 1965. Each surviving spouse of a member or other person having legal custody of a member's child or children who is paid an additional amount for each of the member's children because of the amendments to this section enacted at the 1965 or 1967 Regular Session shall receive those payments as they accrue from and after October 1 of the year during which this section was amended to provide for the payment to the member's child or children of that allowance, but the surviving spouse or other person shall not be given a claim for any increase in those benefits for a time prior to that date.

(g) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

(Amended by Stats. 2000, Ch. 497 (SB 2008), Sec. 4)

(Amended by Stats. 2002, Ch. 1152 (AB 2023), Sec. 13)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 62)

§31787.6. Special death benefit; spouse of safety member who dies as result of accident or injury caused by external violence or physical force; exception

A surviving spouse of a safety member who is killed in the performance of duty or who dies as the result of an accident or injury caused by external violence or physical force, incurred in the performance of his or her duty, shall be paid the following amount in addition to all other benefits provided by this chapter:

A one-time lump-sum benefit equal to an amount, provided from contributions by the county or district, equal to the annual compensation earnable or pensionable compensation as defined in Section 7522.34, whichever is applicable, by the deceased at his or her monthly rate of compensation at the time of his or her death.

This section is not applicable to members described in Section 31469.2.

(Amended by Stats. 2003, Ch. 62 (SB 600), Sec. 154)

(Amended by Stats. 2014, Ch. 741 (AB 2474), Sec. 11)

§31787.65. (Operative date contingent) Optional death allowance; eligible surviving spouse and children; increases linked to job classification (San Bernardino)

(a) For purposes of Section 31787, the final compensation upon which the special death benefit is calculated for the eligible surviving spouse or eligible children of a safety member killed in the performance of his or her duty shall be increased at any time the increase is effective and to the extent the compensation is increased for then-active members employed in the job classification and membership category that was applicable to the deceased member at the time of the injury, or the onset of the disease, causing death. The deceased member's final compensation shall be deemed to be subject to further increases hereunder only until the earlier of (1) the death of the surviving spouse or eligible children or (2) the date that the deceased

member would have attained the age of 50 years.

(b) This section applies only to a county of the seventh class, as defined by Sections 28020 and 28028, as amended by Chapter 1204 of the Statutes of 1971, and shall not be operative until the board of supervisors, by resolution, makes this section applicable in the county. A resolution to make this section operative in the county shall specify whether these provisions apply retroactively or prospectively only.

(Added by Stats. 2009, Ch. 583 (SB 345), Sec. 1)

§31789. Specific amount from county or district contributions; amount

Upon the death of any person after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his estate or to such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of seven hundred fifty dollars ($750) to be provided from contributions of the county or district.

This section applies to every member who dies after this section becomes operative whether he has retired before or after the operative date or effective date of this section.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Amended by Stats. 1971, Ch. 282, Sec. 1)

§31789.01. Contra Costa County; specific amount from county or district; offset by federal payment (Contra Costa)

Notwithstanding Sections 31786, 31787, and 31787.5, upon the death, after retirement and while receiving a retirement allowance from this system, of any person who was covered under Section 31751, there shall be paid to the member's estate, or to such beneficiary as the member shall nominate by written designation duly executed and filed with the board, the sum of two thousand dollars ($2,000) to be provided from contributions of the county or district, offset by any lump-sum death payment made under the federal Social Security Act.

(Added by Stats. 1980, Ch. 58, Sec. 17, Effective April 4, 1980)

§31789.1. Specific benefit from county surplus earnings

Upon the death of any member after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his estate or to such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of seven hundred fifty dollars ($750).

This section applies to every member who dies after this section becomes operative whether he has retired before or after the operative date or effective date of this section.

Only one death benefit payment shall be paid under this section or under Section 31789, and shall be paid by the system subject to Section 31789 and this section where the member rendered his last active service.

This section shall not become operative in any county until such time as the board of retirement determines that its benefits may be financed from surplus earnings of the retirement fund. Upon this determination by the retirement board, the provisions of this section shall become operative.

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510[1]) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.[2]

(Amended by Stats. 1983, Ch. 886, Sec. 8)

[1]Renumbered. See Section 31610 et seq.

[2]Renumbered Section 31618.

§31789.2. Death benefit; in lieu of payment; payment from contributions and surplus earnings

Upon the death of any person after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his estate, or to such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of seven hundred fifty dollars ($750).

This section applies to every member who dies after this section becomes operative whether he has retired before or after the operative date or effective date of this section.

The death benefit provided by this section shall be paid in lieu of a payment under Section 31789 or 31789.1 and may be paid in part, from contributions of the county or district in accordance with Section 31789, and in part, from surplus earnings of the retirement system in accordance with Section 31789.1.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions of this section applicable in such county and until such time as the board of retirement, by resolution adopted by a majority vote, determines that its portion of the benefits may be financed from surplus earnings of the retirement fund.

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510[1]) of this chapter, only that portion of those benefits which is paid from surplus earnings described in Section 31592.2 shall be paid, instead, from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.[2]

(Amended by Stats. 1983, Ch. 886, Sec. 9)

[1]Renumbered. See Section 31610 et seq.

[2]Renumbered Section 31618.

§31789.3. Death of person receiving retirement allowance; death benefit to designees; operation and application of section

(a) Upon the death of any person after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his or her estate or to the beneficiary as he or she shall nominate by written designation duly executed and filed with the board, an amount determined by the board of supervisors to be provided from contributions of the county or district. The board of supervisors shall, by resolution adopted by majority vote, fix and determine an amount that shall not exceed five thousand dollars ($5,000).

(b) This section applies to every member who dies after this section becomes operative whether he or she has retired before or after the operative date or effective date of this section.

(c) The death benefit provided by this section shall be paid in lieu of a payment under Section 31789 or 31789.1.

(d) This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in the county.

(Added by Stats. 1997, Ch. 439 (AB 407), Sec. 1)

§31789.5. Death of person while receiving retirement allowance; operation and application

(a) Upon the death of any person after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his or her estate, or to the beneficiary as he or she shall nominate by written designation duly executed and filed with the board, an amount determined by the board of supervisors. The board of supervisors shall, by resolution adopted by majority vote, fix and determine an amount that may not exceed five thousand dollars ($5,000).

(b) This section applies to every member who dies after this section becomes operative whether he or she has retired before or after the operative date or effective date of this section.

(c) The death benefit provided by this section shall be paid in lieu of a payment under Section 31789 or 31789.1 and may be paid in part, from contributions of the county or district in accordance with Section 31789, and in part, from surplus earnings of the retirement system in accordance with Section 31789.1.

(d) The death benefit provided by this section may, at the election of the board of retirement, be provided through a group life insurance policy if the cost of that policy to the system is the same or less than the cost to the system, county, or district of other methods of providing the benefit.

(e) This section may not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section applicable in the county and the board of retirement, by resolution adopted by a majority vote, determines that its portion of the cost of the benefits may be financed from surplus earnings of the retirement fund.

(f) Upon adoption, by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31610), only that portion of those benefits that is paid from surplus earnings described in Section 31592.2 shall be paid, instead, from the Supplemental Retiree Benefits Reserve established pursuant to Section 31618.

(Added by Stats. 1997, Ch. 439 (AB 407), Sec. 2)

(Amended by Stats. 2004, Ch. 441 (AB 979), Sec. 7)

§31789.12. Benefit from county surplus earnings; increase; alternative payment from supplemental retiree benefits reserve

Notwithstanding Section 31789.1, the board may increase the sum payable pursuant to Section 31789.1 to one thousand dollars ($1,000).

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31610) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31618.

(Amended by Stats. 1989, Ch. 149, Sec. 1)

§31789.13. Death of persons while receiving retirement allowances; supplemental benefits; maximum

Upon the death of any person while receiving a retirement allowance from the system, the board of retirement may supplement the sum payable pursuant to Section 31789 by an amount of two hundred fifty dollars ($250) from the surplus earnings established pursuant to Section 31592.2.

This section applies to every retiree who dies after this section becomes operative whether retired before or after the operative date of this section.

This section shall not become operative in any county until such time as the board of retirement determines that this supplemental benefit can be financed from the surplus earnings established pursuant to Section 31592.2 which exceed 1 percent of the total assets of the retirement system.

The total of the death benefits paid pursuant to Section 31789 and this section shall not exceed one thousand dollars ($1,000). The death benefits payable pursuant to Section 31789 and this section shall be paid only by the system which is subject to Section 31789 and this section and in which the member rendered his or her last service.

(Added by Stats. 1986, Ch. 441, Sec. 1, Effective July 22, 1986)

§31790. Death before retirement; allowance to estate or beneficiary

Upon the death of any person before retirement which person shall have to his credit at least 10 years of service with the county or district, there shall be paid to his estate or to such beneficiary as he shall nominate by written designation duly executed and filed with the board,

the sum of seven hundred fifty dollars ($750) to be provided from the contributions of the county or district.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions hereof applicable to the county.

(Amended by Stats. 1971, Ch. 282, Sec. 2)

§31791. Increase in maximum age of eligible children; unmarried, enrolled, full-time students to age 23; payments to legally incompetent children regardless of age (Los Angeles)

Notwithstanding Section 31760.1, 31765.1, 31781.1, 31781.2, 31785, 31786, 31787, or 31787.5, the board of supervisors of a county of the first class as described by Sections 28020 and 28022 may, by resolution adopted by a majority vote and with respect to the death benefit payable pursuant to any, all, or any combination of, those sections, take any or all of the following actions:

(a) Increase the maximum age for eligible children who remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board, to the age of 23 years.

(b) Provide for payment of the death benefit to any surviving children for such period as those children remain legally incompetent to act as adults regardless of age.

(Added by Stats. 1985, Ch. 890, Sec. 2)

§31792. Increase of amounts payable; authority of board; application to counties of the first class (Los Angeles)

Notwithstanding any other provision of this chapter to the contrary, the board may, by a resolution adopted, pursuant to both this section and Section 31768, by a majority vote and with respect only to persons who first become members on or after the effective date of the resolution, act as follows:

(a) Elect to increase, by 33 percent, the amounts payable pursuant to anyone or more of Sections 31781.1, 31785, and 31785.1.

(b) Elect to decrease, by 20 percent, the amounts payable pursuant to any one or more of Sections 31786, 31786.1, and 31787.

This section shall apply only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1993, Ch. 286 (AB 1452), Sec. 2)

Article 13

Integration with Old Age and Survivors Insurance

(Article 13 added by Stats. 1957, Ch. 663, Sec. 1)

§31800. Applicability; resolution of governing board; approval by eligible members; referendum

(a) Except as provided in subdivision (b), the provisions of this article shall be applicable to any member who is subject to the federal old age and survivors insurance provisions of the federal Social Security Act, when the governing board of the county or district in which the member is employed adopts by majority vote a resolution providing that this article shall be applicable to all members in such county or district who are subject to the federal system. The

provisions of this article shall become fully effective and operative on the date specified in such resolution; provided, however, such resolution shall have received prior approval by majority affirmative vote of eligible members employed by the county or district in a referendum conducted in accordance with the provisions of Article 2 of Chapter 2 of Part 4 of Division 5 of Title 2 of this code. Nothing in this article shall be construed as negating or in any way affecting the validity of a referendum vote conducted prior to the enactment of this article, whereby a majority of members employed by a county or district voted in favor of federal old age and survivors insurance coverage on a purely additive or supplemental basis.

(b) Notwithstanding subdivision (a), this article shall not be applied to any member or to the service, contributions, or benefits of any member that, on or after January 1, 2013, is subject to the provisions of the California Public Employees' Pension Reform Act of 2013. Nothing herein shall preclude a member who is subject to the California Public Employees' Pension Reform Act of 2013 and whose position is included in an agreement between the state and federal government for coverage under the old age and survivors insurance provisions of the federal Social Security Act from also being subject to that federal system as a supplementation system under which the social security benefits shall be in addition to unintegrated retirement benefits.

(Added by Stats. 1957, Ch. 663, Sec. 1)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 18, Effective October 4, 2013, as an urgency statute)

§31800.1. San Mateo County; general or safety members; optional calculation of retirement allowance (San Mateo)

Notwithstanding any other provisions of law, the board of supervisors in a county of the 10th class as described by Sections 28031 may adopt, by majority vote, a resolution providing that:

(a) Any general member employed by the county or any district included within the membership of the county retirement association shall have the option, at any time prior to retirement, of having his retirement allowance for service rendered after the date of his exercising this option calculated to equal the following:

(1) The fraction of one-ninetieth of the first one thousand fifty dollars ($1,050) monthly of the member's final compensation set forth in the table appearing in Section 31676.1 in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-sixtieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.1 in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

The retirement allowance payable for service rendered prior to the date of the member's election shall be computed in accordance with the provisions of Section 31676.1. The retirement allowance payable for service performed after the effective date of the member's election shall equal the total of paragraphs (1) and (2) of this subdivision.

Any member who elects to have his retirement allowance so calculated shall have the definition of "final compensation" in Section 31462 or Section 31462.2, whichever is applicable, applied at the date of retirement regardless of previous service under the provisions of Section 31462.1.

(b) Any safety member employed by the county or any district included within the membership of the county retirement association shall have the option, at any time prior to retirement, of having his retirement allowance for service rendered after the date of his

exercising this option calculated to equal the following:

(1) The fraction of one seventy-fifth of the first one thousand fifty dollars ($1,050) monthly of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

The retirement allowance payable for service rendered prior to the date of the safety member's election shall be computed in accordance with provisions of Section 31664. The retirement allowance payable for service performed after the effective date of the safety member's election shall equal the total of paragraphs (1) and (2) of this subdivision.

Any safety member who elects to have his retirement allowance so calculated shall have the definition of "final compensation" in Section 31462 or Section 31462.2, whichever is applicable, applied at the date of retirement regardless of previous service under the provisions of Section 31462.1.

(c) Before permitting a member to exercise the option authorized by this section, the board of supervisors shall provide that member with a written explanation of the effect on the member's retirement benefits and contributions of exercising that option. No member may rescind his action after exercising the option authorized in this section.

(d) Any member who elects deferred retirement after becoming subject to the provisions of this section shall receive a retirement allowance determined in accordance with subdivision (a) or subdivision (b) of this section.

(e) Any member who exercises the option authorized in this section shall continue to contribute as provided for in Article 6 (commencing with Section 31620) or Article 6.8 (commencing with Section 31639), of this chapter, whichever is applicable, a lesser amount as determined by an actuary.

(f) Any member who exercises the option authorized in this section and who is also eligible and elects or has elected to receive credit in the retirement system for public service as provided in Section 31641.1 shall have the retirement allowance for such public service calculated as if he had not exercised the option authorized in this section.

(g) Any member who exercises the option authorized in this section and who is also eligible and elects to receive the benefits of Section 31641.5, 31652, or 31831.1 shall have the retirement allowance for that service calculated in accordance with subdivisions (a) or (b) of this section.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the system.

Any additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is adopted shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

(Added by Stats. 1980, Ch. 442, Sec. 4)

§31800.5. Integration as to members employed by county or district; conversion to supplementation system

Whenever pursuant to the provisions of this article federal old age and survivors insurance provisions of the Social Security Act have been integrated as to members employed by a county or district, the relationship may be converted to a supplementation system under which the social security benefits shall be in addition to unintegrated retirement benefits. The conversion shall take place when the governing body of the county or district adopts by majority vote, a resolution providing that the conversion shall take place; provided, however, the resolution shall have received prior approval by majority affirmative vote of eligible members employed by the county or district in a referendum conducted in accordance with the provisions of Article 2 (commencing with Section 22300), Chapter 2, Part 4, Division 5 of Title 2 of this code. The conversion shall take place and become fully effective and operative on the date specified in the resolution.

In the event that the employees of the county or district are divided into more than one coverage group for purposes of the Social Security Act, the conversion may be with respect to all coverage groups or one or more coverage groups as the governing board may determine in the resolution.

(Added by Stats. 1969, Ch. 1329, Sec. 1)

§31801. Legislative intent; supersedure of inconsistent provisions; extension of federal system to policeman's and fireman's position

It is the intent of the Legislature that the enactment of this article shall authorize persons in positions covered by a retirement system pursuant to this chapter to participate in the federal old age and survivors insurance provisions of the Social Security Act without jeopardizing the continued maintenance of their local system.

To this end and notwithstanding any other provisions of this chapter, the provisions of this article, when made applicable by resolution of the governing board, shall supersede or modify any inconsistent provision in this chapter in its application to every member whose position is included in an agreement between the state and federal government for coverage under the old age and survivors insurance provisions of the Social Security Act.

The provisions of this chapter are not repealed by this article, however, and except as superseded or modified by this article in their application to members who are covered by old age and survivors insurance, they shall continue to be fully effective and operative.

Nothing in this article shall authorize the extension of the federal system to service in any policeman's or fireman's position covered by a separate retirement system unless all of the policemen or firemen are included as a unit without any division of their separate retirement system.

When federal benefits are to be extended by any fireman's or policeman's position pursuant to this part they shall vote separately from other members of such system in all cases without regard to their classification as miscellaneous members or otherwise, and notwithstanding Section 22009.1, such system shall constitute a separate retirement system with respect to the positions of policemen or firemen, or both, covered by the system.

(Amended by Stats. 1961, Ch. 1033, Sec. 2)

§31802. Federal agency defined

"Federal agency" means the Secretary of Health, Education and Welfare, or the predecessor or successor in functions to such officer.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31803. Federal system defined

"Federal system" means the old age and survivors insurance provisions of the Social Security Act.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31804. Reference to federal law as including amendments

Whenever reference is made to any federal law or regulation or part thereof, the reference applies to all amendments and additions now or hereafter made to such law.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31805.1. Recalculation of benefits

Effective with the approval of this section the service retirement allowances of those heretofore retired shall be recalculated as though Section 31805 had not been enacted.

(Amended by Stats. 1980, Ch. 676, Sec. 117)

§31806. Inapplicability of compulsory retirement provisions to certain members; retirement upon qualifying for federal benefits

The provisions of this chapter requiring retirement at age 65 or 70, whichever applies, shall not be applicable to any person who is a member on the effective date of this article when the application of such provision would preclude the member from qualifying for federal benefits, but such member shall be retired forthwith, as provided in Section 31671 or Section 31671.01[1], upon qualifying for such federal benefits.

(Amended by Stats. 1967, Ch. 1155, Sec. 4)

[1]Both repealed. See, now, Section 31671.05 for mandatory retirement provisions.

§31807. Minimum retirement allowances

The retirement allowance payable under Section 31808, Section 31808.1 or Section 318091 of this code, whichever is applicable, to a person who was a member on the effective date of this article in any county pursuant to this article if not fully insured for old age payments under the federal system at time of retirement shall be not less than that amount for which he would have been eligible if this article were not applicable to the member.

The retirement allowance payable under Section 31808, Section 31808.1 or Section 31809[1] of this code, whichever is applicable, to a person who was a member on the effective date of this article in any county pursuant to this article if fully insured for old age payments under the federal system at time of retirement shall not be less than an amount which, when added to the primary insurance amount payable to him under the federal system at time of retirement will equal the allowance which would otherwise be payable to the member under the provisions of this chapter if this article were not applicable to the member. If the member retires for service prior to retirement age under the federal system and the amount available to him under the provisions of Section 31810 is less than the allowance which would otherwise be payable to the member under the provisions of this chapter if this article were not applicable to the member then the allowance shall be increased to an amount not less than that which would otherwise be payable.

(Amended by Stats. 1961, Ch. 987, Sec. 2)

[1]Repealed

§31808. Retirement allowance in certain counties; prior service; current service; computation of benefits

(a) Except as provided in subdivision (c), in any county or district subject to the

provisions of Section 31676.1, 31676.11, 31676.13, or 31676.14, the retirement allowance payable for retirement service rendered prior to the effective date of the resolution mentioned in Section 31800 shall be computed in accordance with the provisions of Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable. Except as provided in subdivision (b), the retirement allowance with respect to service performed after May 31, 1957, shall equal the total of the following:

(1) The fraction of one-ninetieth of the first three hundred fifty dollars ($350) monthly of the member's final compensation set forth in the table appearing in Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable, in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-sixtieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable, in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(b) With respect to persons who become members of a county retirement system after the effective date of the amendments to this section enacted at the 1979–80 Regular Session, the retirement allowance shall equal the following:

(1) The fraction of one-ninetieth of the first one thousand fifty dollars ($1,050) monthly of the member's final compensation set forth in the table appearing in Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable, in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-sixtieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable, in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(3) This subdivision may be made applicable in any county of over six million population on the first day of the month after the board of supervisors of such county adopts by majority vote a resolution providing that this subdivision shall become applicable in such county.

(c) This section shall not apply to the retirement allowance of a person who becomes a member of a county retirement system under a benefit plan established pursuant to Section 7522.20 or 7522.25.

(Amended by Stats. 1979, Ch. 21, Sec. 1, Effective April 5, 1979)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 19, Effective October 4, 2013, as an urgency statute)

§31808.1. Retirement allowance in certain counties; law enforcement members; prior service; current service; computation of benefits

In any county or district subject to the provisions of Section 31676.1, and to which the provisions of Section 31470.6 are applicable, the retirement allowance for any member whose principal duties consist of active law enforcement as defined in Section 31470.6, and Section 31469.3 and those made eligible to safety membership by Section 31469.4 of the Government Code for service rendered prior to the effective date of the resolution provided in Section 31800 shall be computed in accordance with the provisions of Section 31664. The retirement allowance of any such member with respect to service performed after the effective date of the resolution shall equal the total of the following:

(a) The fraction of one seventy-fifth of the first three hundred fifty dollars ($350)

monthly of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(b) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(Amended by Stats. 1970, Ch. 821, Sec. 2)

§31808.2. Computation for service between effective date of article or resolution and date of return to active membership

Notwithstanding the provisions of Section 31808 and 31808.1, the retirement allowance with respect to service performed after the effective date of this article for allowances subject to Section 31808 and after the effective date of the resolution described in Section 31808.1 shall be computed on the basis of Section 31676.1 for the service, not subject to benefits under the federal system, between the effective date of this article or resolution, as such dates are set forth in Sections 31808 and 31808.1 and the date of return to active membership of members who separated from employment in any county subsequently to the aforesaid dates and who returned to the service of the same county.

(Added by Stats. 1965, Ch. 525, Sec. 1)

§31808.5. Retirement allowance for safety members in certain counties; compensation

In any county which has safety members as defined in Sections 31470.2 and 31470.4 subject, prior to January 1, 1962, to the provisions of this article, the board of supervisors may adopt the provisions of this section.

The retirement allowance for any safety member subject to this article for service rendered prior to the date of adoption of this article by a county board of supervisors shall be computed in accordance with the provisions of Section 31664. The retirement allowance of any such member, subject to this article, with respect to service performed after the effective date of adoption by the county of this article shall equal to the total of the following:

(a) The fraction of one seventy-fifth of the first three hundred fifty dollars ($350) monthly of the member's final compensation set forth in the table provided for in Section 31664 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(b) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his age at retirement taken to the preceding quarter year multiplied by the number of years of creditable service.

The retirement allowance for any safety member who is not subject to this article shall be computed in accordance with the provisions of Section 31664.

Any member who becomes a safety member after the adoption date of this section shall be subject to the provisions of this article.

This section shall not apply to any safety member who is a member on date of adoption of this section unless within 60 days thereafter he files with the board a signed written statement expressing his desire to have the section apply to him.

Any member subject to the provisions of this section may elect deferred retirement pursuant to Article 9 (commencing with Section 31700) of this chapter.

(Amended by Stats. 1968, Ch. 755, Sec. 2)

§31808.6. Retirement allowance for safety members in certain counties; computation

(a) Notwithstanding any other provision of law, in any county or district first subject to the provisions of Section 31676.1 or 31695.1 on or after July 1, 1969, having members performing the duties of safety members as defined in Sections 31470.2 and 31470.4, if the board of supervisors adopts this section and as to those members adopts or has already adopted the provisions of this article, then the retirement allowance of those safety members shall be computed according to the applicable provisions of this subdivision, as selected by the board of supervisors.

(1) The retirement allowance shall be computed according to the provisions of Section 31664 or 31664.1, and federal old age and survivors' insurance coverage shall be on an additive or supplemental basis.

(2) If Section 31664 applies, the retirement allowance shall equal the total of both of the following:

(A) The retirement allowance for service rendered prior to the effective date of the resolution specified in Section 31800 shall be computed in accordance with the provisions of Section 31664.

(B) The retirement allowance for service performed after the effective date of the resolution shall equal the total of both of the following:

(i) The fraction of one seventy-fifth of the first three hundred fifty dollars ($350) monthly of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided in that section.

(ii) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(3) If Section 31664.1 applies, the retirement allowance shall equal the total of both of the following:

(A) The retirement allowance for service rendered prior to the effective date of the resolution specified in Section 31800 shall be computed in accordance with the provisions of Section 31664.1.

(B) The retirement allowance for service rendered after the effective date of the resolutions shall equal the total of both of the following:

(i) The fraction of one seventy-fifth of the first three hundred fifty dollars ($350) monthly of the member's final compensation set forth in the table appearing in Section 31664.1 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided in that section.

(ii) Three percent of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664.1 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(b) Notwithstanding any other provision of law, in counties which have adopted the provisions of this section and have voted to apply the provisions of this chapter relating to safety members as provided by Section 31695.1, the retirement benefits as well as the contributions of eligible members subject to this article who do not elect pursuant to Section 31695.2 to come under the safety member provisions of this chapter, shall be the same as the retirement benefits and contributions of members other than safety members in the county.

(c) The retirement allowance for any safety member who is not subject to this article shall be computed in accordance with the provisions of Section 31664.

(d) Any member who becomes a safety member after the effective date of the selection of the method of computing the retirement allowance by the board of supervisors shall be subject to that selection and to the provisions of this article.

(e) Any member subject to the selection described in subdivision (d) made by the board of supervisors may elect deferred retirement pursuant to Article 9 (commencing with Section 31700).

(Added by Stats. 1969, Ch. 767, Sec. 3)

(Amended by Stats. 2008, Ch. 164 (AB 3044), Sec. 11)

§31808.7. Retirement allowance in counties or districts subject to Section 31676.12; computation

In any county or district, subject to Section 31676.12, which adopts or has already adopted the provisions of this article, the retirement allowance of members subject to Section 31676.12 shall be computed according to either the provisions of subdivision (a) or subdivision (b) of this section as selected by the board of supervisors.

(a) The retirement allowance for service rendered prior to the effective date of this article as specified in the resolution mentioned in Section 31800 shall be computed in accordance with the provisions of Section 31676.12. The retirement allowance of any member with respect to service performed after the effective date of this article as specified in the resolution mentioned in Section 31800 shall equal the total of the following:

(1) The fraction of one seventy-fifth of the first three hundred fifty dollars ($350) monthly of the member's final compensation set forth in the table appearing in Section 31676.12 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.12 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service, or

(b) The retirement allowance shall be computed according to the provisions of Section 31676.12 and federal old age and survivors' insurance coverage shall be on an additive or supplemental basis.

(Amended by Stats. 1973, Ch. 55, Sec. 4)

§31808.8. San Diego County; alternative benefit formulas; resolution (San Diego)

The board of supervisors of a county of the third class may, by majority vote, adopt a resolution providing either or both of the following:

(a) That subdivision (b) of Section 31808 is applicable to persons who become members of the county retirement system after the effective date designated in the resolution and that persons who were subject to subdivision (a) of Section 31808 prior to that date may elect to have their retirement allowance for services rendered after that date computed in accordance with subdivision (b) of Section 31808.

(b) That an employee who is subject to subdivision (a) of Section 31808.7 may elect to have his retirement allowance computed, with respect to service rendered after the effective date designated in the resolution, in accordance with the following:

(1) The fraction of one seventy-fifth of the first one thousand fifty dollars ($1,050) monthly of the member's final compensation set forth in the table appearing in Section 31676.12 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-fiftieth of any remaining portion of the member's final

compensation set forth in the table appearing in Section 31676.12 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(Added by Stats. 1981, Ch. 823, Sec. 1)

§31808.9. Retirement allowance in counties subject to Section 31676.17, 31676.18, or 31676.19; computation of benefits

In any county or district, subject to Section 31676.17, 31676.18, or 31676.19, that adopts or has already adopted the provisions of this article, the retirement allowance of members subject to Section 31676.17, 31676.18, or 31676.19 shall be computed according to either the provisions of subdivision (a) or subdivision (b) of this section as selected by the board of supervisors.

(a) The retirement allowance for service rendered prior to the effective date of this article as specified in the resolution mentioned in Section 31800 shall be computed in accordance with the provisions of Section 31676.17, 31676.18, or 31676.19, as applicable. The retirement allowance of any member with respect to service performed after the effective date of this article as specified in the resolution mentioned in Section 31800 shall equal the total of the following:

(1) The fraction of one seventy-fifth of the first three-hundred fifty dollars ($350) monthly of the member's final compensation set forth in the table appearing in Section 31676.17, 31676.18, or 31676.19, as applicable, in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.17, 31676.18, or 31676.19, as applicable, in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(b) The retirement allowance shall be computed according to the provisions of Section 31676.17, 31676.18, or 31676.19, as applicable, and federal old age and survivors' insurance coverage shall be on an additive or supplemental basis.

(Added by Stats. 2001, Ch. 782 (AB 616), Sec. 10)

§31810. Retirement before eligibility under federal system; modification of allowance; election; approval

A member who retires for service prior to the age of becoming eligible for retirement payments under the federal system and who at the time of retiring is fully insured under the federal system, may, with the approval of the Retirement Board, elect to have his retirement allowance increased prior to such eligible age and reduced after such age by amounts which have equivalent actuarial values. This modification is for the purpose of coordinating a member's retirement allowance with benefits receivable from the federal system.

(Amended by Stats. 1963, Ch. 642, Sec. 1)

§31811. Death of member making election; beneficiary's allowance

If a member who has elected the option provided in Section 31810 dies leaving a beneficiary entitled to an allowance based upon the allowance of the member, the beneficiary's allowance shall be based upon the allowance the member would have received had he not elected the option.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31812. Members' contributions; exemptions

(a) Except as provided in subdivision (c), each member shall continue to contribute as provided for in Article 6 (commencing with Section 31620) or (in case of those members defined in Sections 31470.2, 31470.4, and 31470.6) Article 6.8 (commencing with Section 31639) of this chapter less an amount equal to one-third of that portion of such contribution which is payable with respect to the first three hundred fifty dollars ($350) monthly wage, or in counties where the board of supervisors pursuant to subdivision (b) of Section 31808.6 elects to compute the retirement allowance of safety members according to the provisions of Section 31664, each safety member shall make contributions as provided for in Article 6.8 of this chapter with respect to all of his or her monthly wage.

(b)(1) With respect to persons who become members of a county retirement system after the effective date of the amendments to this section enacted at the 1979–80 Regular Session, each member shall contribute as provided for in Article 6 (commencing with Section 31620) or (in case of those members defined in Sections 31470.2, 31470.4, and 31470.6) Article 6.8 (commencing with Section 31639) of this chapter less an amount equal to one-third of that portion of such contribution which is payable with respect to the first one thousand fifty dollars ($1,050) monthly wage, or in counties where the board of supervisors pursuant to subdivision (b) of Section 31808.6 elects to compute the retirement allowance of safety members according to the provisions of Section 31664, each safety member shall make contributions as provided for in Article 6.8 of this chapter with respect to all of his or her monthly wage.

(2) This subdivision may be made applicable in any county of over six million population on the first day of the month after the board of supervisors of such county adopts by majority vote a resolution providing that this subdivision shall become applicable in such county.

(c) This section shall not apply to the retirement allowance of a person who becomes a member of a county retirement system under a benefit plan established pursuant to Section 7522.20 or 7522.25.

(Amended by Stats. 1979, Ch. 21, Sec. 2, Effective April 5, 1979)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 20, Effective October 4, 2013, as an urgency statute)

§31812.1. Members' contributions; counties or districts subject to Sections 31676.12 and 31808.7

Each member subject to Section 31676.12 and subdivision (a) of Section 31808.7 shall continue to contribute as provided for in Article 6 (commencing with Section 31620) less an amount equal to one-third of that portion of such contribution which is payable with respect to the first three hundred fifty dollars ($350) monthly wage, or in counties where the board of supervisors pursuant to subdivision (b) of Section 31808.7 elects to have the retirement allowance of members computed according to the provisions of Section 31676.12, each member shall make contributions as provided for in Section 31621.2 with respect to all his monthly wage.

(Added by Stats. 1972, Ch. 425, Sec. 5)

§31813. Federal contributions; simultaneous effective date of article and coverage under federal system; validation of refunds

If this article is effective simultaneously with the effective date of coverage of members under the federal system, the employee and employer federal contributions required with respect to salaries and wages paid for services rendered after the effective date of coverage of such member under the federal system and prior to the time that federal contributions are the

first deducted from the salaries and wages of such members shall be paid (1) the employee contribution by the county from the member's accumulated contributions to the extent that such retroactive costs do not exceed one-third of that portion of the member's contributions under this chapter which is payable with respect to the first three hundred fifty dollars ($350) monthly wage for such retroactive period (2) the employer contributions from contributions made by the county or district during such retroactive period.

If the member's federal contributions payable for such period is greater than the accumulated contributions resulting from one-third of that portion of the member's contributions under this chapter during such period, which is payable with respect to the first three hundred fifty dollars ($350) monthly wage, the difference shall be paid by the member to the county or district in such manner as may be determined by the Retirement Board.

If the federal contributions payable by the member for such period is less than the accumulated contributions resulting form one-third of that portion of the member's contributions which are payable with respect to the first three hundred fifty dollars ($350) monthly wage, pursuant to the provisions of this chapter for such period, the county or district shall refund the amount of such excess to the member.

All refunds made under this section prior to the effective date of the amendments to this section enacted at the 1959 Regular Session of the Legislature are hereby validated and confirmed.

(Amended by Stats. 1959, Ch. 703, Sec. 2, Effective May 29, 1959)

§31814. Federal contributions; article effective subsequent to effective date of coverage under federal system

If this article is effective subsequent to the effective date of the coverage of members under the federal system the employees' federal contributions required of members with respect to salary and wages paid for service rendered after the effective date of coverage of such member under the federal system and prior to the time that federal contributions are first deducted from the salary or wage of such members, shall be paid to the county or district by the member in such manner as may be determined by the Retirement Board.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31815. Deferred retirement; determination of allowance

Any member who elects deferred retirement after becoming subject to the provision of this article shall receive a retirement allowance determined in accordance with Section 31808, 31808.1, 31808.6, or 31809[1], whichever is applicable.

(Amended by Stats. 1969, Ch. 767, Sec. 5, Effective August 14, 1969)

[1]Repealed

§31816. Redeposit of accumulated contributions previously withdrawn; amount

In the event that any member who is required to or who has the right to elect to redeposit accumulated contributions previously withdrawn, elects so to do, the amount of such redeposit shall be the amount of his previously withdrawn contributions adjusted in accordance with the provisions of Section 31813.

(Added by Stats. 1959, Ch. 1193, Sec. 4)

§31816.1. Credit for service; modification

If, after the adoption of this article by a county, a member is permitted by other sections of this act to obtain credit for service by making contributions into this system for previous

service, that part of such contributions applicable to the period of time after the adoption of this article by the county shall be modified in accordance with Section 31812.

(Added by Stats. 1959, Ch. 1193, Sec. 5)

§31817. Contra Costa County; inapplicability of article; exception (Contra Costa)

This article shall not be applicable to any member subject to Section 31751 except with respect to the member's service prior to the date such section was made applicable to the member.

(Added by Stats. 1980, Ch. 58, Sec. 18, Effective April 4, 1980)

Article 14

Subrogation

(Article 14 added by Stats. 1947, Ch. 424, Sec. 1)

§31820. Recovery by board against third party tortfeasor; application of Workmen's Compensation Law

If benefits are payable under this chapter because of an injury to, or the death of, a member of the retirement association, and such injury or death is the proximate consequence of the act of any person other than his employer, the board on behalf of the retirement association may recover from such person an amount which is the lesser of the following:

(1) An amount which is equal to one-half of the actuarial equivalent of the benefits for which the association is liable because of such injury or death; or

(2) An amount which is equal to one-half of the remaining balance of the amount recovered after allowance of that amount which the employer or its insurance carrier have paid or become obligated to pay. The right shall be determined under the subrogation provisions of any workmen's compensation law.

(Amended by Stats. 1965, Ch. 1340, Sec. 1)

§31821. Joinder of retirement association with employer or insurer

The retirement association may join with the employer or its compensation insurance carrier in any proceeding under this article.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31822. Application of amounts recovered from third party tortfeasor

Any amount recovered by any of the parties shall be applied, first, to the amounts which the employer or its insurance carrier have paid or become obligated to pay, and second, to the amounts to which the retirement association is entitled under the provisions of Section 31820 hereof.

(Amended by Stats. 1965, Ch. 1340, Sec. 2)

§31823. Commencement of actions; time at which liability of retirement system fixed

Actions brought by the board under this article shall be commenced within three years after the liability of the retirement system to pay benefits is fixed. Liability of the retirement system is fixed at the time the board approves the payment of benefits under this chapter.

(Added by Stats. 1981, Ch. 159, Sec. 1)

Article 15

Reciprocal Benefits

(Article 15 added by Stats. 1961, Ch. 1693, Sec. 10)

§31830. Legislative intent

The provisions of this article are intended to encourage career public service by granting reciprocal retirement benefits to members who are entitled to retirement rights or benefits from two or more retirement systems established under this chapter or from a retirement system established under this chapter and the Public Employees' Retirement System, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, and to delineate the financial obligations of each system and related political entity so that no system or political entity shall be liable for more than its just financial obligation.

(Amended by Stats. 1968, Ch. 1046, Sec. 3)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 6)

§31831. Authority to elect deferred retirement; rescission; withdrawal of contributions

Any member, whether over or under the minimum age of service retirement, who leaves county service and within 90 days or six months if Section 31840.4 applies thereafter becomes a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, a member of the State Teachers' Retirement System, or a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, regardless of the amount of county service, may elect deferred retirement pursuant to Article 9 of this chapter, except that he or she may not, after that election, rescind the election or withdraw any of his or her accumulated contributions while a member of such other system.

(Amended by Stats. 1969, Ch. 122, Sec. 18)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 7)

§31831.1. Election by member leaving county service and becoming member of another system to leave contributions on deposit

Any member who left county or district service on or before December 31, 1971, and became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System, who did not elect to, or was not eligible to, leave his contributions on deposit pursuant to Article 9 (commencing with Section 31700) may now elect to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) by redepositing in the retirement fund of the county or district he left the amount of accumulated contributions and interest he withdrew from such retirement fund plus regular interest thereon from date of separation.

Any such member whose accumulated contributions are on deposit as provided in this section and any other member who left county or district service on or before December 31, 1971, who became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System and who elected to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) shall be eligible for the benefits provided in this article, and for purposes of such benefits shall be deemed to have entered membership in such other system within 90 days of his separation from county or district employment. The deferred retirement allowance for such member shall be determined in accordance with the provisions of this chapter applicable to members retiring

directly from county employment on the date of his retirement. Any member who qualifies for a reduced age at entry pursuant to this section shall be entitled to use such age only from and after the date he completes the redeposit as provided in this section or, if he elected to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700), from and after the date he notifies the board in writing that he desires the benefits of this section. This section shall not apply to members who are retired or who are not in service of an employer making him a member of a retirement system established under this chapter or of the Public Employees' Retirement System.

Unless this chapter expressly provides to the contrary the retirement allowance received by a member pursuant to this section shall be calculated based upon the laws pertaining to the retirement system of such district or county as of the date of retirement and not the laws pertaining to such system as of the date the member first left county or district service.

This section shall not be applicable to any member entering service after December 31, 1977.

(Amended by Stats. 1976, Ch. 629, Sec. 2)

§31831.2. Member leaving service and becoming member in another county or of public employees' retirement system; election to leave contributions on deposit; redeposit; eligibility for benefits; applicability of section

Any member who left county or district service on or before December 31, 1974, and became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System, who did not elect to, or was not eligible to, leave his or her contributions on deposit pursuant to Article 9 (commencing with Section 31700) may now elect to leave his or her accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) by redepositing in the retirement fund of the county or district he or she left the amount of accumulated contributions and interest he or she withdrew from the retirement fund plus regular interest thereon from date of separation.

Any such member whose accumulated contributions are on deposit as provided in this section and any other member who left county or district service on or before December 31, 1974, who became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System and who elected to leave his or her accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) shall be eligible for the benefits provided in this article, and for purposes of these benefits shall be deemed to have entered membership in the other system within 90 days, or six months if Section 31840.4 applies, of his or her separation from county or district employment. The deferred retirement allowance for the member shall be determined in accordance with the provisions of this chapter applicable to a member retiring directly from county employment on the date of his or her retirement. Any member who qualifies for a reduced age at entry pursuant to this section shall be entitled to use that age only from and after the date he or she completes the redeposit as provided in this section or, if he or she elected to leave his or her accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700), from and after the date he or she notifies the board in writing that he or she desires the benefits of this section. This section shall not apply to members who are retired or who are not in service of an employer making him or her a member of a retirement system established under this chapter or of the Public Employees' Retirement System.

Unless this chapter expressly provides to the contrary the retirement allowance received by a member pursuant to this section shall be calculated based upon the laws pertaining to the retirement system of the district or county as of the date of retirement and not the laws

pertaining to the system as of the date the member first left county or district service.

This section shall not be applicable to any member entering service after December 31, 1979.

This section shall apply only in a county of the first class, as established by Sections 28020 and 28022 but shall not be operative in a county until adopted by resolution of the board of supervisors.

(Added by Stats. 1982, Ch. 991, Sec. 3)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 8)

(Amended by Stats. 2005, Ch. 22 (SB 1108), Sec. 93)

§31831.3. Election to redeposit contributions on deposit for active members of retirement systems; rights of former members; application of section; criteria to determine eligibility of former members

(a) Notwithstanding Sections 31831.1 and 31831.2, any former member who left county or district service and became a member of a retirement system established under this chapter in another county or district, or a reciprocal retirement system, or a retirement system established under the Public Employees' Retirement Law, and who did not elect to, or was not eligible to, leave his or her contributions on deposit pursuant to Article 9 (commencing with Section 31700), may elect to redeposit those contributions if he or she is an active member of a county retirement system, the Public Employees' Retirement System, or another reciprocal retirement system at the time of redeposit. A former member may exercise this right by redepositing in the retirement fund of the county or district he or she left, the amount of accumulated contributions and interest that he or she withdrew from that retirement fund plus regular interest thereon from the date of separation.

(b) A former member who redeposits under this section shall have the same rights as a member who elected to leave his or her accumulated contributions on deposit in the fund. The deferred retirement allowance of the member shall be determined in accordance with the provisions of this chapter applicable to a member retiring directly from county employment on the date of his or her retirement.

(c) A former member who redeposits under this section shall be entitled to a reduced age at entry, commencing with contributions payable the first day of the month following the date the association receives notice of the redeposit, only to the extent provided in Section 31833.

(d) This section does not apply to the following:

(1) A member or former member who is retired.

(2) A former member who is not in the service of an employer making him or her a member of a retirement system established under this chapter in another county or district, a retirement system established under the Public Employees' Retirement Law, or another reciprocal retirement system.

(e) This section shall only apply to either of the following:

(1) A former member who is in the service of an employer as an officer or employee of a law enforcement agency or fire department whose principal duties consist of active law enforcement or firefighting and prevention service, but excluding one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement or firefighting and prevention service, even though the officer or employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service.

(2) A former member who is in the service of an employer and seeks to redeposit

contributions for past employment as an officer or employee of a law enforcement agency or fire department in this system whose principal duties consisted of active law enforcement or firefighting and prevention service, but excluding one whose principal duties were those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions did not clearly come within the scope of active law enforcement or firefighting and prevention service, even though the officer or employee was subject to occasional call, or was occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service.

(f) For purposes of this section, a "former member" is a member who left county or district service and who did not elect to, or was not eligible to, leave his or her contributions on deposit pursuant to Article 9 (commencing with Section 31700).

(g) Each retirement system shall establish criteria to determine the eligibility of a former member to redeposit contributions, and the amount of contributions that may be redeposited, pursuant to this section in those cases in which the system no longer maintains complete records with respect to the former member.

(Added by Stats. 2002, Ch. 883 (AB 2766), Sec. 3)

§31832. Data and information on employee's status

The board shall, on request of the Board of Administration of the Public Employees' Retirement System, the board of retirement of a retirement system established in another county under this chapter, the Board of Retirement of the State Teachers' Retirement System, or the board of retirement of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, supply information and data necessary for the administration of such other system as it is affected by membership in and service credited under this system.

(Amended by Stats. 1968, Ch. 1046, Sec. 6)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 9)

§31833. Age at entry

For the purpose of this article and Articles 6 and 6.8 of this chapter, age at time of entrance into the retirement system for a person who enters within 90 days, or six months if Section 31840.4 applies, of last rendering service as a member of the Public Employees' Retirement System, another retirement system established under this chapter, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, and who retains his membership in such other system or systems, shall be his age at entry into the first such other system.

(Amended by Stats. 1968, Ch. 1046, Sec. 7)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 10)

§31833.1. Member's age at time of entrance into retirement system; redeposit or contributions

For the purpose of this article and Article 6 (commencing with Section 31620) and Article 6.8 (commencing with Section 31639) of this chapter, a member's age at the time of entrance into the retirement system for a person who, after entering, redeposits the contributions he or she withdrew from the Public Employees' Retirement System, and who otherwise meets all requirements for reciprocity under this article by reason of his or her membership in the Public Employees' Retirement System, shall be his or her age at entry into the Public Employees' Retirement System, commencing with the pay period immediately following receipt of confirmation from the Public Employees' Retirement System that all withdrawn contributions

have been redeposited.

(Added by Stats. 2000, Ch. 966 (AB 2331), Sec. 11)

§31834. Time of becoming safety members

Notwithstanding Section 31558 and regardless of age at entry into the system in counties subject to the provisions of Section 31676.1 and in counties electing pursuant to Section 31695.1, a person shall become a safety member on the first day of the calendar month following his entrance into service in a position the principal duties of which are defined in Sections 31470.2, 31470.4 or 31470.6, if such first day of the calendar month is within 90 days, or six months if Section 31840.4 applies of last rendering active police or fire suppression or lifeguard work as a member of the Public Employees' Retirement System or a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, and the person retains his membership in such other system.

(Amended by Stats. 1968, Ch. 1046, Sec. 8)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 12)

§31835. Average earnable compensation; computation; conditions

The average compensation during any period of service as a member of the Public Employees' Retirement System, a member of the Judges' Retirement System or Judges' Retirement System II, a member of a retirement system established under this chapter in another county, a member of the State Teachers' Retirement System, or a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, shall be considered compensation earnable or pensionable compensation pursuant to Section 7522.34, whichever is applicable, by a member for purposes of computing final compensation for that member provided:

(a) The period intervening between active memberships in the respective systems does not exceed 90 days, or 6 months if Section 31840.4 applies. That period shall not include any time during which the member was prohibited by law from becoming a member of the system of another county. Notwithstanding anything in this chapter to the contrary, the 90-day or 6-month restriction referred to in this section or any other provision of this chapter affecting deferred retirement shall not be applicable to any members who left county or district service prior to October 1, 1949, and subsequently redeposited.

(b) He or she retires concurrently under both systems and is credited with the period of service under that other system at the time of retirement. The provisions of this section shall be applicable to all members and beneficiaries of the system.

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 13)

(Amended by Stats. 2001, Ch. 433 (AB 1099), Sec. 3)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 44)

§31835.01. Retroactive extension of benefits; subsequent redeposit of contributions

Section 31835 shall be retroactively applied so as to extend the benefits thereof to every active and retired member and beneficiary who left county or district service prior to October 1, 1949, and subsequently redeposited his contributions in the system in respect to all payments for time after the effective date of his retirement and prior to the effective date of this section as well as to payments for time after the effective date of this section.

(Added by Stats. 1972, Ch. 195, Sec. 1)

§31835.02. Eligibility to retire at age 50; ineligibility to retire from other retirement systems (Alameda County)

Notwithstanding any other provision of this part, Section 31835 shall also apply to any member who was a member of a retirement system established under this chapter and who subsequently becomes a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, providing the period intervening between the periods for which active service was credited does not exceed 90 days, or six months if Section 31840.2 applies, and the member retires concurrently under both systems and is credited with the periods of service at the time of retirement.

This section shall only be operative in any county of the fourth class as described in Sections 28020 and 28025 if it is adopted by a majority vote of the board of supervisors.

(Added by Stats. 1998, Ch. 116 (AB 2763), Sec. 3)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 14)

(Amended by Stats. 2001, Ch. 159 (SB 662), Sec. 118)

§31835.1. Member eligible to retire at age 50 or required to retire because of age who cannot retire concurrently from Public Employees' Retirement System or system in another county

Notwithstanding the provisions of Sections 31835 and 31836, a member of a retirement system established under this chapter who is eligible to retire at age 50 pursuant to Section 31672, or who is required to retire because of age while a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, but who cannot retire concurrently from the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, shall be entitled to have his final compensation and service determined under Sections 31835 and 31836 as if he had retired concurrently under such other system.

(Amended by Stats. 1972, Ch. 1344, Sec. 2, Effective December 22, 1972)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 15)

§31836. Service; credit for service

"Service," solely for purposes of qualification for payment of benefits and retirement allowances, shall also include service as an employee of the state or a contracting agency under the Public Employees' Retirement System or of another county having a retirement system established under this chapter, or as a member of the State Teachers' Retirement System, or as a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, if the compensation for such service constitutes compensation earnable or pensionable compensation pursuant to Section 7522.34, whichever is applicable, by a member under Section 31835 of this part. No credit shall be granted in this retirement system for service for which the member has received credit in another retirement system or for which he or she is presently

receiving a retirement allowance from another retirement system.

(Amended by Stats. 1968, Ch. 1046, Sec. 10)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 16)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 45)

§31836.1. "Service" defined; operative date

"Service," for the purpose of qualifying members for the discontinuance of contributions pursuant to Section 31625.2, shall also include service as an employee of the state, a contracting agency under the Public Employees' Retirement System, another county having a retirement system established under this chapter, or any other public agency if the compensation for the service constitutes compensation earnable by a member under Section 31835.

This section shall become operative on January 1, 1988.

(Repealed (by Sec. 1) and added by Stats. 1982, Ch. 202, Sec. 2, Operative January 1, 1988, by its own provisions)

§31836.2. "Service" defined; 30 year cancellation of contributions for safety members (Los Angeles)

(a) "Service," for the purpose of qualifying members for the discontinuance of contributions pursuant to Section 31664, 31664.1, or 31664.2 shall also include service as an employee of the state, a contracting agency under the Public Employees' Retirement System, another county having a retirement system established under this chapter, or any other public agency if the compensation for the service constitutes compensation earnable by a member under Section 31835.

(b) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971.

(c) This section is declaratory of existing law.

(Added by Stats. 2008, Ch. 164 (AB 3044), Sec. 12)

§31837. Members leaving accumulated contributions on deposit; eligibility; conditions

Any member who elects, pursuant to Section 31700 and 31832, to leave his accumulated contributions on deposit may be retired for disability, regardless of age or length of service, and receive a disability retirement allowance under this article based on the service credited to him at the time of retirement during any period thereafter in which he receives a disability retirement allowance under the Public Employees' Retirement System or a retirement system established under this chapter in another county, subject to the following conditions:

(1) That such allowance shall not be paid if the period intervening between the last service credited under this system and his becoming a member in such other system exceeds 90 days.

(2) That if the member is retiring for nonservice-connected disability, and, if a safety member has not attained age 55, or if a nonsafety member has not attained age 65, his retirement allowance shall be as calculated pursuant to Section 31838.

(3) That such allowance shall be an annuity which is the actuarial equivalent of the member's accumulated contributions when retirement under the other system is for disability arising out of and in the course of employment subject to such other system.

(Amended by Stats. 1968, Ch. 1046, Sec. 11)

§31837.1. Election to leave accumulated contributions on deposit; retired for disability and receipt of disability retirement allowance (Contra Costa)

Notwithstanding Sections 31837 and 31838, any member covered under Section 31751

who elects, pursuant to Sections 31700 and 31832, to leave accumulated contributions on deposit may be retired for disability and receive a disability retirement allowance under this section during any period hereafter in which the member receives a disability retirement allowance under the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, subject to all of the following conditions:

(a) That such allowance shall not be paid if the period intervening between the last service credited under this system and becoming a member in such other system exceeds six months.

(b) That, if the member is retiring for non-service-connected disability, the disability requirements shall be that of the other system and the member's retirement allowance shall be based on the other system's disability benefit formula. The disability benefit received in the county shall be calculated as if all the member's service was in the other system but then prorated using the ratio of service in this county to the total service in both systems.

(c) That, if the member is retiring for disability arising out of and in the course of employment subject to such other system, the allowance to the member shall be an annuity which is the actuarial equivalent of the member's accumulated contributions at the time of retirement.

(Added by Stats. 1980, Ch. 58, Sec. 19, Effective April 4, 1980)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 17)

§31838. Retirement allowance; computation of amount

Every safety member under age 55 years and every other member under age 65 years who is retired for nonservice-connected disability and who is retired simultaneously under a disability retirement allowance from the Public Employees' Retirement System or a retirement system established under this chapter in another county shall receive a retirement allowance equal to the greater of the following amounts;

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

(2) A sum which shall consist of:

(a) An annuity which is the actuarial equivalent of his accumulated contributions at the time of his retirement, and

(b) If, in the opinion of the board, his disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his part, a disability retirement pension purchased by contributions of the county or district, all computed as provided in Sections 31727 or 31727.2.

(Amended by Stats. 1968, Ch. 1046, Sec. 12)

§31838.5. Members with service credits in more than one entity; disability benefit amount

No provision of this chapter shall be construed to authorize any member, credited with service in more than one entity and who is eligible for a disability allowance, whether service connected or nonservice connected to receive an amount from one county that, when combined with any amount from other counties or the Public Employees' Retirement System, results in a disability allowance greater than the amount the member would have received had all the member's service been with only one entity.

In cases of service-connected disability allowances only, the limitation on disability allowances provided for in this section shall apply to service-connected disability allowances payable to those who, after being employed with another county or an entity within the Public

Employees' Retirement System, become employed by a second public entity on or after January 1, 1984. Each entity shall calculate its respective obligations based upon the member's service with that entity and each shall adjust its payment on a pro rata basis.

(Amended by Stats. 1984, Ch. 767, Sec. 1)

§31839. Death before retirement; death benefit

Upon the death before retirement of a member, while in service as a member of the Public Employees' Retirement System or a retirement system established pursuant to this chapter in another county, who has made an election pursuant to Section 31700 and 31832, the death benefit provided in Section 31781 payable by the system from which he or she elected deferred retirement shall consist of:

(a) When death is not the result of a disease or injury arising out of and in the course of employment, the amount of such death benefit shall not exceed an amount which when added to the death benefit payable for the member under such other system will equal the total of the accumulated contributions to both systems plus 50 percent of the annual compensation earnable or pensionable compensation pursuant to Section 7522.34, whichever is applicable, by the deceased during the 12 months immediately preceding his or her death.

(b) When death is the result of disease or injury arising out of and in the course of his or her employment as a member of such other system, such death benefit shall consist solely of the member's accumulated contributions.

(Amended by Stats. 1968, Ch. 1046, Sec. 13)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 46)

§31840. Applicability of death benefit provisions to certain counties

The death benefit provisions of paragraph (a) of Section 31839 shall be subject to the provisions of Sections 31765, 31765.1, 31781.1 and 31781.2 in those counties where these sections are applicable. In all calculations under these sections only the retirement allowances which would be payable by the system from which the member elected deferred retirement shall be considered.

The provisions of Section 31784 shall apply to the death benefits provided by paragraphs (a) and (b) of Section 31839.

(Added by Stats. 1961, Ch. 1693, Sec. 10)

§31840.01. Contra Costa County; death benefit (Contra Costa)

Notwithstanding Section 31840, upon the death before retirement of a member covered under Section 31751, while in service as a member of a retirement system established pursuant to this chapter in another county, who has made an election pursuant to Section 31700 and 31831, the death benefit provisions of paragraph (a) of Section 31839 shall be subject to the provisions of Sections 31765, 31765.1, 31781.1, and 31781.2 in such other system where these sections are applicable. In all calculations under these sections, the death benefit received from this county shall be calculated as if all of the member's service was in the other system but then prorated using the ratio of service in this county to the total service in both systems. The provisions of Section 31784 shall apply to the death benefits provided by subdivisions (a) and (b) of Section 31839.

(Added by Stats. 1980, Ch. 58, Sec. 20, Effective April 4, 1980)

§31840.1. University member; applicability of provisions

The provisions of this article extending rights to a member of a county retirement system established under this chapter or subjecting him to any limitation, by reason of his

membership in the Public Employees' Retirement System, shall apply in like manner and under like conditions to said member by reason of his membership in any retirement system maintained by the Regents of the University of California, provided said member enters any retirement system maintained by said regents pursuant to an agreement made on or after January 1, 1965, between said regents and a county making provision for the operation by said regents of all or any part of the hospital facilities of that county or the transfer of title to such a hospital to the regents and for reciprocal university retirement system rights and limitations substantially comparable to those prescribed by this article.

(Amended by Stats. 1972, Ch. 709, Sec. 3)

§31840.2. Extension of rights or subjecting member to limitation by reason of membership in Public Employees' Retirement System

The provisions of this article extending rights to a member of a county retirement system established under this chapter or subjecting him or her to any limitation by reason of his or her membership in the Public Employees' Retirement System shall apply in like manner and under like conditions to a member by reason of his or her membership in any retirement system established under Chapter 2 (commencing with Section 45300) of Division 5 of Title 4 with respect to which an ordinance complying with Section 45310.5 has been filed with and accepted by the board or by reason of his or her membership in a retirement system established by or pursuant to the charter of a city or city and county or by any other public agency of this state which system, in the opinion of the board, provides a similar modification of rights and benefits because of membership in a system established under this chapter and with respect to which the governing body of such city, city and county or public agency and the board have entered into agreement pursuant to Section 20351. This section shall apply only to a member whose termination and subsequent reentry into employment resulting in a change in membership from a system established under this chapter to such other system or from such other system to a system established under this chapter occurred after such acceptance or determination by the board; provided, however, that provisions relating to computation of final compensation shall apply to any other member if such provision would have applied had the termination and entry into employment occurred after such acceptance or determination by the board.

As used in this section, "board" means the Board of Administration of the Public Employees' Retirement System.

(Amended by Stats. 1970, Ch. 837, Sec. 2)

(Amended by Stats. 2000, Ch. 966 (AB 2331), Sec. 18)

§31840.3. Extension of rights to person who terminated state employment on or after June 30, 1971, and became permanent county employee on or before January 4, 1972

The provisions of this chapter extending rights to a member of a county retirement system established under this chapter by reason of his membership in the Public Employees' Retirement System shall also apply to members who terminated state employment on or after June 30, 1971, but because of county budget problems were not employed in the permanent positions to which they would otherwise have been assigned and did not become permanent county employees until on or before January 4, 1972.

This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors.

(Added by Stats. 1974, Ch. 1029, Sec. 2)

§31840.4. Rights conditioned upon reemployment prior to termination of membership; length of time; applicability of section

Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within 90 days of termination of employment covered by a system under this chapter or another retirement system, with respect to such reemployment which occurs on and after January 1, 1976, such period shall be six months rather than 90 days.

This section shall also be applicable to members who were permanent employees of the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.

(Amended by Stats. 1976, Ch. 1420, Sec. 3.5)

§31840.5. Extension of rights to certain former state employees employed by district

The provisions of this chapter extending rights to a member of a county retirement system established under this chapter or subjecting him to any limitation, by reason of his membership in the Public Employees' Retirement System shall also apply to members who terminated state employment and became employees of a district within six months of such termination and who were employees of such district at the time that the district became subject to the county retirement system. Any change in a member's contribution rate shall become effective on January 1, 1977, and a member whose rate is reduced shall not be entitled to any payment with respect to his rate of contribution prior to that date.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1976, Ch. 701, Sec. 1)

§31840.6. Elected officer members who become members of other system upon commencement of other elective office; maximum break in service

Whenever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within six months of termination of membership in a system under this chapter or another retirement system, such period shall be one year rather than six months if the member was an elective officer and becomes a member of a system established under this chapter upon commencement of service in another elective office on and after January 1, 1977.

This section shall not be applicable in any county until adopted by the board of supervisors nor until the other employer in a reciprocal system elects a similar provision.

(Added by Stats. 1976, Ch. 1315, Sec. 2)

§31840.7. Rights conditioned upon reemployment within specified period following termination; contingent operation

Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within a specified period after termination of employment covered by a system under this chapter or another retirement system, the period shall be one year in the case of any member who was reemployed on or after January 1, 1989, and whose termination of employment was due to layoff because of, a lack of work, a lack of funds, or a reduction in workforce.

This section shall not be operative in any county until the time that the board of supervisors, by resolution adopted by a majority vote, makes the provision applicable in that county.

(Added by Stats. 1990, Ch. 595, Sec. 1)

§31840.8. Application of chapter provisions; State Teachers' Retirement System Defined Benefit Plan members; Judges' Retirement System and Judges' Retirement System II

The provisions of this chapter extending rights to a member of a county retirement system established under this chapter by reason of his or her membership in the Public Employees' Retirement System shall also apply to members of the State Teachers' Retirement System Defined Benefit Plan, the Judges' Retirement System, and the Judges' Retirement System II.

(Added by Stats. 1998, Ch. 1077 (SB 610), Sec. 4)

(Amended by Stats. 2001, Ch. 433 (AB 1099), Sec. 4)

Article 15.5

Survivors'Allowances

(Article 15.5 added by Stats. 1961, Ch. 1591, Sec. 3; Article applicable in counties adopting it as prescribed by Section 31841)

§31841. Operative effect as to counties

This article shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this article applicable in such county.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31841.1. Applicability to members subject to Federal Social Security Act

This article shall not be applicable to any member who because of his county service is subject to the federal old age and survivors insurance provisions of the Federal Social Security Act.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31842. Eligible spouse defined

As used in this article "eligible spouse" means an individual who is caring for one or more of the children (as defined in Section 31843) of a deceased member and who is:

(a) The widow or widower of such deceased member, or

(b) The divorced former spouse of such deceased member, from whom he or she was receiving not less than one-half of his or her support at the time of his or her death.

(Amended by Stats. 1976, Ch. 1436, Sec. 26)

§31843. Child defined

As used in this article "child" means a member's child who is dependent upon such member at the time of his death and while such child is unmarried and:

(a) Under 18 years of age, or

(b) Whether under or over 18 years of age, totally disabled and such disability occurred prior to such child attaining age 18 years.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31844. Parent defined

As used in this article "parent" means:

The father or mother of the deceased member who at the time of the death of such member was not less than 62 years of age and was receiving not less than one-half of his or her support from the member, and who has not remarried since the member's death.

(Amended by Stats. 1976, Ch. 1436, Sec. 27)

§31845. Waiver of death benefit by eligible spouse; survivor's allowance

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to his death, survived by an eligible spouse, if such eligible spouse waives the amount, if any, payable as a death benefit pursuant to Section 31781, such eligible spouse shall be paid a monthly survivor's allowance equal to the sum, based upon the member's compensation at the time of his death and the number of children for which such eligible spouse is caring, specified in Section 31849 minus the amount to which such eligible spouse is entitled pursuant to Section 31765, 31765.1, 31781.1, 31781.2, or 31787.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31846. Custodian's or guardian's waiver of death benefit; survivor's allowance to children

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to his death and who is survived by one or more children, during such time as no eligible spouse is entitled to a survivor's allowance pursuant to this article, if the father or mother having custody or guardian of such child or children waives the amount, if any, payable as a death benefit pursuant to Section 31781, such child or children shall be entitled to a monthly survivor's allowance equal to the sum, based upon the member's compensation at the time of his death and the number of children, specified in Section 31849 minus the amount to which such children are entitled pursuant to Section 31765, 31765.1, 31781.1, 31781.2, or 31787.

(Amended by Stats. 1980, Ch. 676, Sec. 118)

§31847. Division of survivor's allowance to children

The monthly survivor's allowance in the case of two or more children entitled thereto shall be divided equally between them.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31848. Survivor's allowance to parents

Upon the death of a member prior to retirement who was a member continuously for not less than 10 years immediately prior to his death, who is survived by one or both parents, if no death benefit is paid to anyone pursuant to Section 31781 other than the member's widow, widower, or children, such parent, or both of such parents shall each be entitled to a monthly survivor's allowance equal to the sum, based upon the member's compensation at the time of his death, specified in Section 31849.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31849. Table of survivors' allowances

Monthly survivors' allowances shall be based upon the following table:

Member's survivors	Monthly allowances
Surviving spouse caring for one child	$591.80
Surviving spouse caring for two or more children	$690.40
One child only	$295.90
Two children only	$581.80
Three or more children	$690.40
Widow or widower age 62 (no child)	$327.10
Each of two dependent parents at age 62	$295.90
Sole dependent parent at age 62	$325.50
Lump sum payment	$255.00

(Amended by Stats. 1974, Ch. 1359, Sec. 1)

§31850. Lump sum supplemental survivorship benefit

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to his death survived by a widow or widower with whom he was living at the time of his death, the retirement system shall pay to such widow or widower in addition to all other payments due, if any, to such widow or widower a lump sum supplemental survivorship benefit of two hundred fifty-five dollars ($255). If such member is not survived by such a widow or widower, the retirement system shall apply such lump sum supplemental survivorship benefit to reimburse the person who paid the funeral expenses of such member to an amount not to exceed two hundred fifty-five dollars ($255).

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31851. Amount of additional contributions

In addition to the contributions required elsewhere in this chapter there shall be deducted from the salary or wages of each member (to finance the costs of the benefits provided in this article) an amount specified in the regulations of the board. The board shall fix the additional contributions of members at amounts which it finds will pay one-half of the cost of the survivors' benefits and lump sum supplemental survivorship benefit provided for in this article. Unless and until such regulations otherwise provide such amount shall equal eighty-eight cents ($0.88) per month for safety members and sixty-eight cents ($0.68) per month for all other members.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31852. Additional deductions not accumulated contributions or refundable

The amounts deducted pursuant to Section 31851 shall not be considered to be a portion of a member's accumulated contributions and shall not be refunded to a member upon termination of service, or for any other reason.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

Article 15.6

Survivors'Allowances

(Article 15.6 added by Stats. 1974, Ch. 415, Sec. 3; Article applicable in counties adopting it as prescribed by Section 31855)

§31855. Legislative intent

It is the intent of the Legislature to provide by this article a means by which any county which has provided all or any of officers and employees with both retirement benefits pursuant to this chapter and federal social security benefits on a nonintegrated basis may provide the benefits set forth herein as an alternative to survivorship benefits under social security. Accordingly, this article shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote and specifying the class or classes of employees to which it applies, make the provisions of this article applicable in such county, and a majority of the members of the affected class or classes voting at an election held during 1974 with more than 50 percent of the members participating, favor the termination of supplemental survivorship benefits under social security. Any such resolution may specify a date subsequent to the date of adoption as the operative date for implementation of this article.

(Amended by Stats. 1974, Ch. 1000, Sec. 2, Effective September 23, 1974)

§31855.1. Inapplicability to retired or deferred retirement status members; reentry into employment

This article shall not be applicable to any member who has retired or been placed in a deferred retirement status prior to the date this article becomes operative in any county; provided, however, that if such member reenters county employment on a full-time basis subsequent to the operative date of the article, it shall become applicable to such member.

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.2. Adoption of enabling resolution

Adoption of an enabling resolution by a board of supervisors shall make the provisions of this article applicable only to officers and employees of that county. If the governing board of any special district whose employees are within the retirement system of that county desire to include their employees within the coverage of this article, they shall do so by adoption of a resolution so to do by a majority of all of the members of the board.

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.3. Child

As used in this article "child" means a member's child who, when the member dies, is both dependent on the member and unmarried, as well as any of the following:

(a) Under 18 years of age.

(b) Any age, totally disabled, and became totally disabled before reaching 18 years of age.

(c) Age 18 years or over, but under 22 years of age, and enrolled as a full-time student in an accredited school, as determined by the board.

(Added by Stats. 1974, Ch. 415, Sec. 3)

(Amended by Stats. 2018, Ch. 92 (SB 1289), Sec. 112)

(Amended by Stats. 2020, Ch. 275 (AB 2101), Sec. 63)

§31855.4. Parent

As used in this article "parent" means the father or mother of the deceased member who at the time of the death of such member was not less than 62 years of age and was receiving not less than one-half of his or her support from the member, and who has not remarried since the member's death.

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.5. Survivor's allowance; spouse

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member's death, the member's surviving spouse shall be paid a monthly survivor's allowance equal to the sum, based upon the appropriate factual circumstances, specified in Section 31855.8 or 31855.12.

(Added by Stats. 1974, Ch. 415, Sec. 3)

(Amended by Stats. 2009, Ch. 9 (AB 1355), Sec. 1)

§31855.6. Survivor's allowance; child or children

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member's death and who is survived by one or more children but no surviving spouse, the child or children shall be entitled to a monthly survivor's allowance as specified in Section 31855.8 or 31855.12. The monthly survivor's

allowance of two or more children shall be divided equally as to those children.

(Added by Stats. 1974, Ch. 415, Sec. 3)

(Amended by Stats. 2009, Ch. 9 (AB 1355), Sec. 2)

§31855.7. Survivor's allowance; parent or parents

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member's death, the member's surviving parent or parents shall be entitled to a monthly survivor's allowance as specified in Section 31855.8 or 31855.12.

(Added by Stats. 1974, Ch. 415, Sec. 3)

(Amended by Stats. 2009, Ch. 9 (AB 1355), Sec. 3)

§31855.8. Survivor's allowances; table

Monthly survivor's allowances shall be based upon the following table:

Member's survivors	Monthly allowances
Surviving spouse caring for one child	$591.80
Surviving spouse caring for two or more children	$690.40
One child only	$295.90
Two children only	$581.80
Three or more children	$690.40
Widow or widower age 62 (no child)	$327.10
Each of two dependent parents at age 62	$295.90
Sole dependent parent at age 62	$325.50
Lump sum payment	$255.00

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.9. Supplemental survivorship benefit; lump sum

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member's death who is survived by a spouse with whom the member was living at the time of his or her death, the retirement system shall pay to the surviving spouse, in addition to all other payments due, if any, a lump sum supplemental survivorship benefit of two hundred fifty-five dollars ($255), as set forth in Section 31855.8 or 31855.12. If the member is not survived by a spouse with whom the member was living, the retirement system shall apply a lump sum supplemental survivorship benefit to reimburse the person who paid the funeral expenses of the member in an amount not to exceed two hundred fifty-five dollars ($255).

(Added by Stats. 1974, Ch. 415, Sec. 3)

(Amended by Stats. 2009, Ch. 9 (AB 1355), Sec. 4)

(Amended by Stats. 2010, Ch. 328 (SB 1330), Sec. 90)

§31855.10. Financing cost of benefits; deduction from salary or wages; contribution by county

In addition to the contributions required elsewhere in this chapter there shall be deducted from the salary or wages of each member covered by the provisions of this article, to finance the cost of the benefits provided herein, the sum of three dollars and fifty cents ($3.50) per month and an equivalent amount to be paid by the county as an additional county contribution. The amounts deducted pursuant to this section shall not be considered to be a portion of a member's accumulated contributions and shall not be refunded to a member

upon termination of service or for any other reason. The board is empowered to change the contribution figures set forth herein from time to time based on actuarial recommendation as to contributions needed to fund these benefits.

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.11. Survivor's allowance, child but no surviving spouse; child not being cared for by surviving spouse; alternative to Section 31855.6; contingent operation

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member's death and who is survived by one or more children but no surviving spouse, or who is survived by one or more children who are not being cared for by the surviving spouse, the child or children shall be entitled to a monthly survivor's allowance as specified in Section 31855.8 or 31855.12, as the case may be. The monthly survivor's allowance of two or more children shall be divided equally as to those children.

This section is an alternative to Section 31855.6.

This section shall not be operative in any county which has adopted this article, until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county.

(Added by Stats. 1991, Ch. 982, Sec. 6)

§31855.12. Survivor's allowances; alternative table; contingent operation

Monthly survivor's allowances shall be based upon the following table:

Member's survivors	Monthly allowances
Surviving spouse caring for one child	$1,390
Surviving spouse caring for two or more children	$1,622
One child only	$695
Two children only	$1,390
Three or more children	$1,622
Widow or widower age 62 (no child)	$768
Widow or widower age 60 (no child)	$663
Each of two dependent parents at age 62	$695
Sole dependent parent at age 62	$795
Lump sum payment	$255

This section is an alternative to Section 31855.8.

This section shall not be operative in any county which has adopted this article, until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county.

(Added by Stats. 1991, Ch. 982, Sec. 7)

Article 16

Alternate Survivors'Allowances

(Article 16 added by Stats. 1961, Ch. 1591, Sec. 3; Article applicable in counties adopting it as prescribed by Section 31861)

§31861. Operative effect as to counties

This article shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this article applicable in such county.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31862. Applicability to members

In counties to which this article applies, this article provides an alternative system of survivors' allowance applicable only to the members who elect to participate.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31863. Election to participate; date election becomes operative

Except as otherwise provided in Section 31864, any member within 30 days after this article becomes operative in the county, or within 30 days after entry into service, or during the calendar months of November or December of any year, may elect to make contributions for, and participate in, the benefits provided for by this article. An election made more than 30 days after this article becomes operative in this county and more than 30 days after entrance into service shall become operative the following January first.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31864. Right to rescind election; effect of rescission

Any member who has elected to participate in the benefits provided for by this article may rescind such election during the months of November or December of any year. Such election shall become operative on the following January first. No part of the contributions deducted, pursuant to this article from his salary or wages will be refunded to such member. Such member may not again elect to participate in the benefits provided for by this article.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31865. Applicability of survivor's allowance provisions

If a member elects to participate in the benefits of this article all of the provisions of Article 15.5 shall apply to such member and to his eligible spouse, children, and parents, and to all other persons to whom Article 15.5 applies, and such provisions are herein incorporated by reference as if set forth in full except as hereinafter in this article provided otherwise.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31866. Fixation of additional contributions

The board shall fix the additional contributions of members at amounts which it finds will pay one-half of the cost of the survivors' benefits and lump sum supplemental survivorship benefit provided for in this article.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31866.1. Contributions from members subject to Federal Social Security Act

Members who because of county service, are subject to the federal old age and survivors insurance provisions of the Federal Social Security Act shall pay the entire cost of the survivors

benefits and lump sum supplemental survivorship benefit provided for in this article.
(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31867. Amount of additional contributions

Until the regulations of the board designate otherwise the additional contribution of each safety member shall be one dollar and thirty cents ($1.30) per month and of each other member shall be one dollar and seventy-one cents ($1.71) per month.
(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31868. Minimum contributions for benefits to spouse or child

If a member elected to participate in the benefits provided for by this article more than 30 days after this article became operative in the county, a survivor's allowance shall not be due to either his eligible spouse or child, and a lump sum supplemental survivorship benefit shall not be due, unless additional deductions were made pursuant to this article from the salary or wages of such member for not less than 18 months.
(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31869. Minimum contributions for benefits to parents

If a member elected to participate in the benefits provided for by this article more than 30 days after this article becomes operative in the county, a survivor's allowance shall not be due to any parent of such member unless additional deductions were made pursuant to this article from the salary or wages of such member for not less than 10 years.
(Added by Stats. 1961, Ch. 1591, Sec. 3)

Article 16.5

Cost-of-Living Adjustment

(Article 16.5 added by Stats. 1965, Ch. 159, Sec. 10; Article applicable in counties adopting it as prescribed by Sections 31874 and 31878)

§31870. Determination; maximum annual change of two percent in allowances; limitation on reduction

The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section.

Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or a superseded system, who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 2 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 2 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this article, whichever is later.
(Amended by Stats. 1978, Ch. 900, Sec. 10)

§31870.01. Determination; increase or decrease by 40 percent of cost-of-living increase or decrease; two percent minimum increase (Los Angeles)

(a) The board of retirement shall, before April 1 of each year, determine whether there has been an increase or decrease in the cost-of-living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter, every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or a superseded system, who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased to the nearest one-tenth of 1 percent, by 40 percent of the annual increase or decrease in the cost-of-living as of January 1st of each year as shown by the then current (year ending December) Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers for the United States City Average, except that no decrease shall reduce the allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance.

(b) The allowance shall be increased a minimum of 2 percent in any year in which the board's determination of cost-of-living change of allowance would result in less, provided that the member or beneficiary has an accumulated unpaid cost-of-living account sufficient to provide the 2 percent increase.

(c) When this section becomes applicable in a county, the accumulated unpaid cost-of-living amount of each retired member or beneficiary under the superseded Section 31870, shall be transferred to a like account under this section. Thereafter, no increase shall be made to such account.

(d) The board of retirement may adopt this section to be effective in lieu of Section 31870, provided, that no increase in unfunded actuarial liability nor in current member or employer contributions to the system are required as a result of the adoption and is so attested by an enrolled actuary. After adoption, the effective date for increases or decreases in allowances pursuant to this section shall be the next succeeding April 1.

(e) This section shall apply only in a county of the first class, as established by Sections 28020 and 28022, as amended by Chapter 1204 of the Statutes of 1971.

(Added by Stats. 1987, Ch. 606, Sec. 1)

§31870.1. Determination; maximum annual change of three percent in allowances; limitation on reduction

The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section.

Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or superseded system who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 3 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 3 percent in allowances shall be accumulated to be met by increases or decreases in allowance in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this article, whichever is later.

(Amended by Stats. 1978, Ch. 900, Sec. 11)

§31870.2. Determination; maximum annual change of five percent in allowances; limitation on reduction

The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section.

Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or superseded system who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 5 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 5 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this section, whichever is later.

(Amended by Stats. 1978, Ch. 900, Sec. 12)

§31870.3. Contra Costa County; determination; limitation

Notwithstanding Section 31870.1, the board shall, before April 1st of each year, determine whether there has been an increase or decrease in the cost-of-living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter, every retirement allowance, optional death allowance, or annual death allowance payable to, or on account of, any member of this system who was covered under Section 31751 who retires or dies, or who has retired or died, shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 4 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 4 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this section, whichever is later.

(Added by Stats, 1980, Ch. 58, Sec. 21, Effective April 4, 1980)

§31870.4. Computation of accumulation established in Section 31870 to Section 31870.3; accumulation adjustment; operative effect

Notwithstanding any other provision of law, the accumulation established in Section 31870, 31870.1, 31870.2, or 31870.3 shall be computed by multiplying the existing accumulation from prior years by an amount equal to one plus the amount of any cost-of-living increase or decrease in the current year, and adding to this result the "accumulation adjustment," where "accumulation adjustment" means the amount of any cost-of-living increase or decrease in the current year that is not met by the maximum annual change in allowances provided in Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable. At no time may the accumulation established in Section 31870, 31870.1, 31870.2, or 31870.3 be less than zero.

This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors. Upon adoption of this section by the board of supervisors, the accumulation of each member under Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable, shall be recomputed as if this section had been in effect on the member's date of retirement.

(Added by Stats. 2001, Ch. 239 (AB 1071), Sec. 1)

§31870.11. Determination; increase or decrease by 60 percent of cost-of-living increase or decrease; three percent minimum increase (Los Angeles)

(a) The board of retirement shall, before April 1 of each year, determine whether there has been an increase or decrease in the cost-of-living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter, every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or a superseded system, who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased to the nearest one-tenth of 1 percent, by 60 percent of the annual increase or decrease in the cost-of-living as of January 1st of each year as shown by the then current (year ending December) Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers for the United States City Average, except that no decrease shall reduce the allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance.

(b) The allowance shall be increased a minimum of 3 percent in any year in which the board's determination of cost-of-living change of allowance would result in less, provided that the member or beneficiary has an accumulated unpaid cost-of-living account sufficient to provide the 3 percent increase.

(c) When this section becomes applicable in a county, the accumulated unpaid cost-of-living account of each retired member or beneficiary under the superseded Section 31870.1, shall be transferred to a like account under this section. Thereafter, no increases shall be made to such account.

(d) The board of retirement may adopt this section to be effective in lieu of Section 31870.1, provided, that no increase in unfunded actuarial liability nor in current member or employer contributions to the system are required as a result of the adoption and is so attested by an enrolled actuary. After adoption, the effective date for increases or decreases in allowances pursuant to this section shall be the next succeeding April 1.

(e) This section shall apply only in a county of the first class, as established by Sections 28020 and 28022, as amended by Chapter 1204 of the Statutes of 1971.

(Added by Stats. 1987, Ch. 606, Sec. 2)

§31871. Funding increases in allowances based on service rendered prior to applicable date of article

Any increases in allowances which are based upon service rendered prior to the applicable date of this article (as fixed pursuant to Section 31874) shall be funded insofar as possible from the moneys in the reserve described in Section 31592 which are in excess of one (1) percent of the assets of the retirement system; except that in counties which have applied Section 31592.2 the board of supervisors may fund all or part of the increases from the county general fund.

(Amended by Stats. 1987, Ch. 162, Sec. 1)

§31872. Funding other increases in allowances

Any such increases in allowances which are not funded as provided in Section 31871 and any such increases which are based upon service rendered after the applicable date of this article (as fixed pursuant to Section 31874) shall be funded by contributions set by the board, as it determines necessary.

(Added by Stats. 1965, Ch. 159, Sec. 10)

§31873. Increases in contributions; equal apportionment; payment by county of contribution assessable to member

(a) Any increases in contributions shall be shared equally between the county or district and the contributing members, with the individual member's contributions based upon the member's age at his or her nearest birthday at time of entrance into the retirement system or based on a single rate of contributions pursuant to Section 31621.11, 31639.26, or as otherwise authorized by this chapter or the California Public Employees' Pension Reform Act of 2013. The board of supervisors by a majority vote may elect to pay part of the costs of the contributions which would otherwise be assessed to the individual members.

(b) Notwithstanding subdivision (a), pursuant to Section 7522.30, the board of supervisors shall not pay any part of the costs of the member contributions of new members as defined in subdivision (f) of Section 7522.04.

(Amended by Stats. 1976, Ch. 1436, Sec. 27.1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 47)

§31873.1. Contra Costa County; equal apportionment of contributions; percentages (Contra Costa)

(a) Any cost-of-living contributions required for benefits under Section 31870.3 shall be shared equally between the county or district and the contributing members. The individual member's contributions shall be based upon the member's age at the member's nearest birthday at time of entrance into the retirement system, and shall be expressed as a percentage of the member's normal contribution rate. The board of supervisors by a majority vote may elect to pay all or part of the costs of the contributions which would otherwise be assessed to the individual members.

(b) Notwithstanding subdivision (a), pursuant to Section 7522.30, the board of supervisors shall not pay any part of the costs of the member contributions of new members as defined in subdivision (f) of Section 7522.04.

(c) Until revised by subsequent actuarial studies, the member's cost-of-living contribution rate shall be 39.57 percent of the member's normal contribution rate. These initial cost-of-living contribution rates are shown in the following table, according to the member's age at the time of entry into the system:

Age of entry into system	Percentage of contribution
16	1.16
17	1.16
18	1.16
19	1.16
20	1.16
21	1.16

Age of entry into system	Percentage of contribution
22	1.16
23	1.16
24	1.16
25	1.17
26	1.17
27	1.18
28	1.18
29	1.19
30	1.20
31	1.20
32	1.21
33	1.22
34	1.23
35	1.24
36	1.25
37	1.26
38	1.27
39	1.28
40	1.29
41	1.30
42	1.31
43	1.32
44	1.33
45	1.34
46	1.36
47	1.37
48	1.38
49	1.40
50	1.41
51	1.43
52	1.44
53	1.46
54 and over	1.47

(Added by Stats. 1980, Ch. 58, Sec. 22, Effective April 4, 1980)
(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 48)

§31874. Applicable date of article; use of surplus for cost-of-living adjustments

This article (commencing Section 31870) may be made applicable in any county on the date specified in the ordinance, or if no such date is specified, on the first day of the month after the effective date of an ordinance adopted by the board of supervisors to this effect, provided that an actuarial survey of the retirement system has been made by the adopting county prior to the passage of said ordinance. No provision of this chapter shall prevent or be construed to prevent the use and expenditure of surplus described in Section 31592.2 to fund any part or all of any increases in allowances otherwise permitted after this article or Article 16.6 (commencing with Section 31875) or both this article and Article 16.6 or any of the provisions of this article or Article 16.6 have been made applicable.

Except in a county of the first class, upon adoption by a county providing increases in allowances pursuant to this article, of Article 5.5 (commencing with Section 31510) of this chapter, only that portion of the increases in allowances which is paid from surplus earnings described in Section 31592.2 shall be paid, instead, from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.

(Amended by Stats. 1983, Ch. 886, Sec. 10)

§31874.1. Determination; application of excess over three percent to allowances

Whenever the percentage of annual increase in the cost-of-living as of January 1st of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds 3 percent, all or part of such excess over 3 percent shall be applied to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870 or 31870.1. The board of supervisors shall determine the amount of such excess to be applied, and the cost of the increases in allowances provided shall be paid from county and district contributions.

This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors.

(Amended by Stats. 1978, Ch. 900, Sec. 13)

§31874.2. Determination; maximum annual change; ordinance

The board of supervisors in any county, by a majority vote, may enact an ordinance providing that the maximum annual change pursuant to this article shall be increased to 4, 5, or 6 percent, as determined by the board, on the operative date of such ordinance.

(Added by Stats. 1974, Ch. 343, Sec. 1)

§31874.3. Determination; application of excess to allowances; effect on subsequent increases

(a)(1) Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds the maximum benefit increase provided in Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable, the board of retirement may provide that all or part of the excess percentage increase shall be applied to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3. The board shall determine the amount of the excess to be applied, which amount shall not exceed an amount that can be paid from earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(2) The supplemental increases in excess of the increases applied to the retirement allowances, optional death allowances, or annual death allowances pursuant to Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances, or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(b)(1) The board of retirement may, instead of taking action pursuant to subdivision (a), provide supplemental cost-of-living increases, effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, that only those

members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 shall equal or exceed 20 percent as of January 1 of the year in which the board of retirement adopts an increase under this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(c)(1) The board of retirement may, instead of taking action pursuant to subdivision (a) or (b), provide supplemental cost-of-living increases, on a prefunded basis and effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 equal or exceed 20 percent as of January 1 of the year in which the board of retirement takes action pursuant to this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall become a part of the retirement allowances, optional death allowances, or annual death allowances and shall serve to reduce the accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3, as applicable, by the same percentage as the payment that is made pursuant to this Section.

(3) Before the board of retirement provides benefits pursuant to this subdivision, the costs of the benefits shall be determined by a qualified actuary and the board of retirement shall, with the advice of the actuary, provide for the full funding of the benefits utilizing funds in the reserve against deficiencies established pursuant to Section 31592.2, using surplus earnings that exceed 1 percent of the total assets of the retirement system.

(4) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(d) Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31610) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefit Reserve established pursuant to Section 31618.

(Amended (as amended by Stats. 1983, Ch. 147, Sec. 2) by Stats. 1983, Ch. 886, Sec. 11)

(Amended by Stats. 2000, Ch. 317 (AB 2176), Sec. 4)

§31874.4. Accumulation of unused increases or decreases for future years; applicability (San Mateo)

Notwithstanding any other provision of law, the board of supervisors in a county of the 10th class may provide in any ordinance implementing any section in this article that the provision of this article requiring unused increases or decreases in any year to be accumulated for future years shall not apply to those employees and officials specified in the ordinance.

(Added by Stats. 1992, Ch. 707, Sec. 5, Effective September 15, 1992)

§31874.5. Additional cost-of-living adjustments

(a) Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds a full 3 percent of the existing cost-of-living increase factor provided by any provision of this article, an additional 1 percent of the excess for each full 3 percent over the existing increase factor shall be applied to the retirement allowances, optional death allowances, or annual death allowances increased by any provision of this article. The increases in allowances resulting from the adoption of this section shall be used to offset any accumulated carryover balances under existing cost-of-living adjustments. The cost of implementing this section shall be prefunded commencing with the adoption of this section by the board of supervisors. The method of paying the cost of implementing this section may be mutually agreed to in a memorandum of understanding executed by the employer and employee representatives. The board of retirement shall conduct the actuarial studies to determine those costs.

(b) This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors.

(c) Notwithstanding subdivision (a), a memorandum of understanding regarding the application of the contributions of new members, as defined in subdivision (f) of Section 7522.04, towards paying the cost of the additional cost-of-living adjustment shall not conflict with the requirements of Section 7522.30 or as may be agreed to in accordance with Sections 7522.30 and 31631.

(Added by Stats. 1999, Ch. 39 (AB 316), Sec. 1)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 49)

§31874.6. Cost-of-living adjustments (Sonoma, Imperial)

(a) Notwithstanding any other provision of law, on an annual basis, the board of retirement may, with the approval of the county board of supervisors, grant a cost-of-living adjustment on a prefunded basis to the retirement allowances, optional death allowances, or annual death allowances payable to or on account of eligible members. The action by the board of retirement may specify a date as of which the adjustment shall be effective and, if no effective date is specified, the adjustment shall be made in allowances payable for the time commencing on the first day of the month following the action by the board of retirement or approval by the county board of supervisors, whichever is later.

(b) Before the board of retirement may grant an adjustment pursuant to this section, the total costs of the adjustment shall be determined by a qualified actuary and the board shall determine, with the advice of the actuary, that full funding of the adjustment can be provided from earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(c) The adjustment provided by this section shall be payable only to those retired members, survivors, beneficiaries, or successors in interest whose accumulated loss of purchasing power equals or exceeds 20 percent as of January 1 of the year the board of retirement takes action pursuant to this section. Loss of purchasing power shall be determined by the board of retirement based on the difference between the following:

(1) The initial retirement allowance, optional death allowance, or annual death allowance as it would have been increased by the cumulative total effect of the annual changes, rounded to the nearest one-half of 1 percent, in the Consumer Price Index for All Urban

Consumers for the area in which the county seat is situated.

(2) The retirement allowance, optional death allowance, or annual death allowance as actually increased by cost-of-living adjustments previously granted with respect to the allowance.

(d) A cost-of-living adjustment granted pursuant to this section shall become part of the retirement allowance, optional death allowance, or annual death allowance to be increased by any subsequent cost-of-living adjustments. The granting of an increase pursuant to this section in any particular year does not create any continuing entitlement to additional increases in subsequent years, and does not create any claim by a retired member, survivor, beneficiary, or successor in interest against the county, district, or retirement fund for any increase in any allowance paid or payable prior to the effective date of the action by the board of retirement pursuant to this section.

(e) This section shall only be applicable in the following counties:

(1) A county of the 19th class, as defined by Sections 28020 and 28040, as amended by Chapter 1204 of the Statutes of 1971.

(2) A county of the 32nd class, as defined by Sections 28020 and 28053, as amended by Chapter 1204 of the Statutes of 1971.

(Added by Stats. 2004, Ch. 435 (AB 2894), Sec. 1)

(Amended by Stats. 2005, Ch. 22 (SB 1108), Sec. 94)

(Amended by Stats. 2008, Ch. 202 (SB 392), Sec. 1)

Article 16.6

Retrospective Cost-of-Living Adjustment

(Article 16.6 added by Stats. 1965, Ch. 521, Sec. 1; Article applicable in counties adopting it as prescribed by Section 31878)

§31875. Adjustments in accordance with past cost-of-living changes; ordinance; applicable law

Any county may provide by ordinance that the principles set forth in Article 16.5 (commencing with Section 31870), as a basis for adjustment of retirement allowances in accordance with future cost-of-living changes, shall be applied for the purpose of adjusting retirement allowances in accordance with past cost-of-living changes.

(Added by Stats. 1965, Ch. 521, Sec. 1)

§31876. Amount of retirement allowances

The retirement allowances payable following the effective date of this article in the county shall be in the same amounts as would be payable if Article 16.5 had been in effect in the county on the date specified in the ordinance as the date for application of this article in the county.

(Added by Stats. 1965, Ch. 521, Sec. 1)

§31877. Adjustments for changes in consumer price index occurring prior to effective date of article; prospective application

Any adjustment made pursuant to this article with reference to changes in the Consumer Price Index for all Urban Consumers which occurred prior to the effective date

of this article in a county shall apply prospectively only; and no right, claim or interest whatsoever shall be created by the application of the provisions of this section in any county with respect to retirement allowance payments made for time prior to the effective date of this article in the county.

(Amended by Stats. 1978, Ch. 900, Sec. 15)

§31878. Ordinance; date of applicability of Article 16.5; effective date of adjustments

(a) This article may be adopted by any county by ordinance.

(b) The ordinance shall specify a date as of which Article 16.5 shall be deemed applicable. The applicable date may be the first day of any prior year. If no applicable date is specified, Article 16.5 shall be deemed applicable as of the first day of the year preceding the year of retirement of the earliest retired member who is currently being paid a retirement allowance at the time the ordinance is adopted.

(c) The ordinance shall specify a date as of which the adjustments made pursuant to this article shall be effective. If no effective date is specified, the adjustments shall be made in allowances payable for time commencing on the first day of the month following the adoption of the ordinance.

(Added by Stats. 1965, Ch. 521, Sec. 1)

§31879. Adoption of either this article or Article 16.5 or both; effect of adoption of both articles

Any county may adopt or readopt this article alone for time to time, adopt Article 16.5 alone, or adopt this article and Article 16.5 at the same time or different times. If both articles are adopted, any accumulated increases in excess of two percent (2%) per year which are accumulated under this article shall be applicable to the computation of future allowance adjustments as provided in Article 16.5 and any allowance which is increased as provided in this article shall be subject to future increase or decrease as provided in Article 16.5.

(Added by Stats. 1965, Ch. 521, Sec. 1)

§31879.1. Adoption of this article and/or Article 16.5; accumulated increases

Any county may adopt or readopt this article alone from time to time, adopt Article 16.5 alone, or adopt this article and Article 16.5 at the same time or different times. If both articles are adopted, any accumulated increases in excess of three percent (3%) per year which are accumulated under this article shall be applicable to the computation of future allowance adjustments provided in Article 16.5 and any allowance which is increased as provided in this article shall be subject to future increase or decrease as provided in Article 16.5.

(Added by Stats. 1967, Ch. 45, Sec. 3)

§31879.2. Adoption of either this article or Article 16.5 or both; accumulated increases

Any county may adopt or readopt this article alone from time to time, adopt Article 16.5 alone, or adopt this article and Article 16.5 at the same time or different times. If both articles are adopted, any accumulated increases in excess of 5 percent per year which are accumulated under this article shall be applicable to the computation of future allowance adjustments as provided in Article 16.5 and any allowance which is increased as provided in this article shall be subject to future increase or decrease as provided in Article 16.5.

(Added by Stats. 1974, Ch. 1388, Sec. 2, Effective September 26, 1974)

Article 17

Integration with Federal Old Age, Survivors, and Disability Insurance

(Article 17 added by Stats. 1963, Ch. 2090, Sec. 1)

§31880. Mandatory integration

Each county having a population in excess of five million, which has not already integrated its retirement system with the federal system, shall effect such integration pursuant to this article to be operative as of a date specified by the board of supervisors to be no later than July 1, 1964.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31881. Incorporation of Article 13 by reference

Except as otherwise expressly provided in this article, all of the provisions of Article 13 of this chapter (commencing with Section 31800) apply to, and are incorporated by reference in this article.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31882. Board

"Board," as used in this article, means the Board of Administration of the Public Employees' Retirement System.

(Amended by Stats. 1972, Ch. 590, Sec. 28)

§31883. Federal-state agreement

"Federal-state agreement" means the agreement or any modification thereof now, heretofore, or hereafter executed by the board pursuant to Section 218 of Title II of the Social Security Act.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31884. Pension board

"Pension board," as used in this article, means the board of retirement.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31885. Retirement system

"Retirement system" means the retirement plan provided by the county for its employees under this chapter.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31886. Policeman

"Policeman" as used in this article includes sheriffs, undersheriffs, deputy sheriffs and any other employee of a county in a position designated as a policeman's position by the board; provided, any such position named herein or as may be designated by the board, is not contrary to any definition, ruling or regulation issued by the federal agency relating to the term "policeman" for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31887. Fireman

"Fireman," as used in this article, means any employee in a position designated as a fireman's position by the board; provided, such designation is not contrary to any definition, ruling or regulation relating to the term "fireman" issued by the federal agency for the

purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31888. Division of retirement system into those desiring, and those not desiring, federal coverage

The pension board shall effect a division into two parts exclusive of the division required by Section 31891, for the purposes of this article, of the retirement system. One part shall consist of those who are active members of the retirement system on division date, and who do not desire coverage under the federal system; and the second part shall consist of those who are active members of the system on division date, and who desire coverage under the federal system and of those who become members of the system after division date. The division date shall be set by the pension board so as to permit modification of the federal-state agreement to include services of employees who are members of the second part of said system.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31889. Method of division

The division shall be conducted in accordance with Section 218(d)(7) of the Social Security Act and applicable federal and board rules and regulations, by the pension board.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31890. Certification of division by governor

Upon receiving evidence satisfactory to him with respect to any division of a retirement system that the conditions specified in Section 218(d)(7) of the Social Security Act have been met, the Governor or any other state official now or hereafter authorized by federal law, shall so certify to the federal agency.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31891. Policemen and firemen deemed in separate retirement systems

For the purpose of this article, policemen, as defined in Section 31886, and firemen, as defined in Section 31887, shall each be deemed to belong to separate retirement systems.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31892. Federal benefits; vote of firemen or policemen

When federal benefits are to be extended to any firemen's or policemen's position pursuant to this part it shall be done only by a vote of such firemen or policemen as provided in Section 31801.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31893. Agreement with federal agency for coverage

The pension board shall apply to the board in accordance with the provisions of this article, and the board shall execute on behalf of the State an agreement with the federal agency for the coverage of employees of the county under the federal system in conformity with the provisions of Section 218 of the Social Security Act and applicable federal regulations.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31894. Agreement governing administration

Notwithstanding the provisions of Section 31893, however, before the board shall execute on behalf of the State an agreement with the federal agency as herein provided, the pension board and the board shall enter into a written agreement, which agreement shall include such provisions not inconsistent with this article which the board deems necessary

in the administration of the said federal system as it affects the State and the county and its employees.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

Article 17.5

Termination of Social Security in Counties with a Population Exceeding 6,000,000

(Article 17.5 added by Stats. 1982, Ch. 1567, Sec. 1; Applicable as prescribed by Section 31894.1)

§31894.1. Application of article; notice of intent to terminate benefits

This article shall apply only in a county with a population exceeding 6,000,000 and shall apply in that county only if the board of supervisors has provided notice of intent to terminate benefits under federal social security.

(Added by Stats. 1982, Ch. 1567, Sec. 1)

§31894.2. Advisory vote; cancellation of notice of intent; judicial proceeding to secure new benefits

Any county which has provided the notice specified in Section 31894.1 shall provide a vote of the affected members, the results of which shall be advisory to the board of supervisors. The board of supervisors may, following the advisory vote, cancel their notice of intent to withdraw from social security at least 30 days prior to the effective date of termination of coverage under the federal system.

Nothing in this section shall be construed to waive any rights that employees may have to secure by appropriate judicial proceeding new benefits comparable to those provided under the federal social security system.

(Added by Stats. 1982, Ch. 1567, Sec. 1)

§31894.3. Certification that board had obtained advisory vote of members

The board of supervisors shall, by resolution, certify to the Board of Administration of the Public Employees' Retirement System that the provisions of Section 31894.2 have been complied with. In the event that the board of supervisors cannot certify compliance with the provisions of Section 31894.2, the board of supervisors shall cancel their notice of intent to withdraw from social security at least 30 days prior to the effective date of termination of coverage under the federal system.

(Added by Stats. 1982, Ch. 1567, Sec. 1)

Article 18

Adjustment to Fit Other Allowances

(Article 18 added by Stats. 1965, Ch. 511, Sec. 1)

§31895. "Public agency" defined

As used in this article "public agency" includes the federal government or any federal department or agency, this state, any other state or any state department or agency, a county, city, public corporation, or public district of this state or any other state. Section 31478 does not apply to this article.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31895.5. "Total benefits" defined

As used in this article, "total benefits" means the retirement allowance or other benefit payable to any beneficiary pursuant to the provisions of this chapter plus any other monetary payments due to the same beneficiary from any public agency.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31896. Increase in allowance resulting in decrease in amount of monetary payments due beneficiary

If an increase in the retirement allowance or other benefit payable to any beneficiary pursuant to the provisions of this chapter, whether such increase begins prior or subsequent to the effective date of this article, results in the decrease of the amount of any monetary payments due to the same beneficiary from any public agency, such retirement allowance or other benefit shall be so reduced as to result in the maximum total benefits to such beneficiary.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31896.5. Change in effect of increase of retirement allowance or other benefit payable to beneficiary

If the statutes, ordinances, rules, regulations, or orders of any public agency are so changed, or if for any other reason the effect of the increase of the retirement allowance or other benefit payable to any beneficiary pursuant to the provisions of this chapter on the amount of any monetary payments due to the same beneficiary by such public agency are changed, the board shall adjust such retirement allowance or other benefit, but not to an amount greater than otherwise authorized by this chapter so as to result in the maximum total benefits to such beneficiary.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31897. Provisions mandatory; information to board; procedure for ascertainment of facts

The provisions of this article are mandatory and not subject to option or election by any member or other beneficiary. Every such beneficiary shall inform the board of all facts necessary in order to comply with this article. The board shall ascertain such facts by such procedures as it sees fit to adopt.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31897.5. Liability for excess payment

If the board in good faith diligently seeks to ascertain all facts necessary in order to comply with this article, but, despite such effort, a payment of a retirement allowance or other benefit to any beneficiary is made without having been reduced as required by this article, neither the board, nor any member thereof, nor any public officer nor public employee shall be liable for such excess payment.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31897.6. Deduction of amount of advanced disability pension payments made to local safety members pursuant to specified Labor Code sections from member's retroactive disability pension payments

The board shall deduct the amount of advanced disability pension payments made to a local safety member pursuant to Section 4850.3 or 4850.4 of the Labor Code from the member's retroactive disability pension payments.

If the retroactive disability allowance is not sufficient to reimburse the total advanced disability pension payments, an amount no greater than 10 percent of the member's monthly

disability allowance shall be deducted and reimbursed to the local agency until the total advanced disability pension payments have been repaid. The local safety member and this system may agree to any other arrangement or schedule for the member to repay the advanced disability pension payments.

(Added by Stats. 2002, Ch. 877 (AB 2131), Sec. 2)

§31898. Reduction not to impair constitutional rights

A retirement allowance or other benefit payable to a beneficiary pursuant to this chapter shall not be reduced pursuant to this article if such reduction would impair the constitutional rights of any person.

(Added by Stats. 1965, Ch. 511, Sec. 1)

Chapter 3.9

Internal Revenue Code County Compliance and Replacement Benefits Program

(Chapter 3.9 added as "Internal Revenue Code County Compliance and Optional Replacement Benefits Program" by Stats. 1990, Ch. 797 (SB 2327), Sec. 3, Effective September 13, 1990, was amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 7, to read as now appearing)

§31899. Purpose

(a) The purpose of this chapter is to ensure the federal tax-exempt status of the county employees' retirement systems, to preserve the deferred treatment of federal income tax on public employer contributions to public employee pensions, and to ensure that members are provided with retirement and other related benefits that are commensurate, to the extent deemed reasonable, with the services rendered without violating the intent and purposes of Section 415 of the Internal Revenue Code.

(b) To achieve this purpose, this chapter incorporates certain pension payment limitations and elects the "grandfather" option in Section 415(b)(10) of the Internal Revenue Code. Also, this chapter provides for certain replacement benefits.

(c) On or after January 1, 2013, the application of this chapter is limited as specified in Section 7522.43.

(Added by Stats. 1990, Ch. 797 (SB 2327), Sec. 3, Effective September 13, 1990)

(Amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 8)

(Amended by Stats. 2013, Ch. 247 (AB 1380), Sec. 50)

§31899.1. Definitions

(a) The definitions in Chapter 3 (commencing with Section 31450) of this part shall apply to this chapter.

(b) The term "Internal Revenue Code" includes all regulations, revenue rulings, notices, and revenue procedures issued by the Internal Revenue Service.

(Added by Stats. 1990, Ch. 797 (SB 2327), Sec. 3, Effective September 13, 1990)

(Amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 9)

§31899.2. First time members on or after January 1, 1990; payment limitations; grandfather election; counties of first class; application

(a) In accordance with Section 31899.3, the retirement benefits for any person who for the first time became a member of the system on or after January 1, 1990, shall be subject to the payment limitations of Section 415 of the Internal Revenue Code. The retirement benefits for

any person who became a member of the system before January 1, 1990, also shall be subject to the payment limitations of Section 415 of the Internal Revenue Code to the extent that those benefits are not exempt from those limitations under the "grandfather" election that has been made under that section and this section.

(b) The "grandfather" election in Section 415(b)(10) of the Internal Revenue Code is hereby made. All members of a retirement system who joined the system prior to January 1, 1990, are exempt from the Section 415 limits to the extent permitted by the Internal Revenue Code.

(c) This section does not apply in a county of the first class as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, which county is instead subject to Article 2.1 (commencing with Section 31510) of Chapter 3.

(Added by Stats. 1990, Ch. 797 (SB 2327), Sec. 3, Effective September 13, 1990)

(Amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 10)

§31899.3. Impact of I.R.C. upon retirement rights; notice to employers; counties of first class

(a) Notwithstanding any other provision of law, the retirement rights conferred by this chapter and by Chapter 3 (commencing with Section 31450) of this part upon any person who for the first time becomes a member of a retirement system on or after January 1, 1990, shall be subject to the limitations in the Internal Revenue Code upon benefits that may be paid by public retirement systems. That person may not have any retirement right or benefit that exceeds those limitations, and no retirement right or benefit may accrue to or vest in that person under Chapter 3 (commencing with Section 31450) that exceeds those limitations. That person may, however, have retirement rights and benefits under the replacement benefits program established under this chapter.

(b) Each retirement board shall provide to each employer a notice of the content and effect of subdivision (a) for distribution, prior to employment, to each person who may become a member and to each person who for the first time becomes a member on or after January 1, 1990.

(c) Chapter 3 (commencing with Section 31450) shall be construed as if it included this section.

(d) This section does not apply in a county of the first class as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, which county is instead subject to Article 2.1 (commencing with Section 31510) of Chapter 3.

(Formerly Section 31673.1, added by Stats. 1989, Ch. 1448, Sec. 2, Effective October 2, 1989)

(Renumbered Section 31899.4 and amended by Stats. 1990, Ch. 797 (SB 2327), Sec. 2.5, Effective September 13, 1990)

(Renumbered Section 31899.3 and amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 11)

§31899.4. Replacement benefits program

(a) Each county and district shall provide a program to replace the benefits that are limited by Section 415 of the Internal Revenue Code for members whose retirement benefits are limited by Section 415 and cannot be fully maximized pursuant to Section 31538. The replacement benefits program shall provide benefits that, together with the benefits provided by the retirement system, are the same as, and may not exceed, the benefits that would be paid by the retirement system but for the application of the limits of Section 415.

Notwithstanding the foregoing, the county or district may modify its replacement

benefits program and may add, modify, or eliminate any replacement benefits, as necessary, to carry out the purpose of this chapter. A replacement benefit may not be reduced if the reduction would impair the vested rights of any person.

(b) Each county shall establish and administer its own replacement benefits program for members whose retirement benefits are limited by Section 415 of the Internal Revenue Code.

(c) A county may, pursuant to a contract with a district, agree to administer the district's replacement benefits program for the district's members whose retirement benefits are limited by Section 415 of the Internal Revenue Code. The county may charge each district a reasonable fee for administering the district's program and the county and district may agree on any other conditions relating to that administration. If a district does not contract with the county to administer its replacement benefits program, it shall establish and administer its own replacement benefits program.

(d) Upon the recommendation of the retirement system's actuary, and in accordance with its obligation to recommend county and district contribution rates under Sections 31453 and 31453.5, the board shall adjust the contributions required to be made by a county or district to the extent that benefits are payable under a replacement benefits program of that county or district.

(e) The county, and any district that establishes and administers its own program, shall enact an ordinance or prescribe regulations or other written documentation setting forth the terms of its replacement benefits program.

(f) Notwithstanding any other provision of this chapter, a county of the first class, as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, is not required to provide replacement benefits to any member under this section if that member participates in General Plan F or Safety Plan F under Article 2.1 (commencing with Section 31510) of Chapter 3.

(Added by Stats. 2003, Ch. 520 (AB 1585), Sec. 12)

§31899.5. Administration of replacement benefits program

Each county, and each district that establishes its own replacement benefits program, shall administer the replacement benefits program established by it pursuant to this chapter. The board may, pursuant to an agreement with the county or the district that establishes its own program, assist in the administration of the replacement benefits program to the extent permitted under the Internal Revenue Code.

(Added by Stats. 2003, Ch. 520 (AB 1585), Sec. 14)

§31899.6. Nonconformity with I.R.C. Sec. 415; inoperative effect on chapter

If the Internal Revenue Service determines that any provision of Chapter 3 (commencing with Section 31450) of this part or this chapter cannot be given effect without placing a retirement system administered under this chapter or Chapter 3 (commencing with Section 31450) of this part out of conformity with Section 415 of the Internal Revenue Code, that provision, only to the extent that it causes that nonconformity and only with respect to the affected parties shall become inoperative with respect to the payment of benefits pursuant to Chapter 3 (commencing with Section 31450) of this part, as of the effective date of the determination. The retirement board shall notify the Secretary of State of inoperation under this section.

(Formerly Section 31899.7, added by Stats. 1990, Ch. 797 (SB 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.6 and amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 16)

§31899.7. Exclusion of public retirement systems; invalidation of application of I.R.C. Sec. 415; inoperation of chapter; action by retirement board

(a) If Section 415 of the Internal Revenue Code is amended to exclude public retirement systems, or if the application of Section 415 of the Internal Revenue Code to public retirement systems is invalidated by the final decision of an appellate court of proper jurisdiction, all sections of this chapter, except this section, shall become inoperative as of the effective date of that amendment or decision. The retirement board shall immediately notify the Secretary of State whenever any provision of this chapter becomes inoperative pursuant to this section.

(b) Whenever all sections of this chapter, except this section, become inoperative pursuant to this section, and to the extent not prohibited by the Internal Revenue Code, the retirement board, county, and districts shall do all of the following:

(1) Remove the pension limitations imposed by Section 415 of the Internal Revenue Code for prospective payments to annuitants.

(2) Eliminate the replacement benefits, and pay benefits that are due under the system to the affected annuitants without regard to any limitations of Section 415 of the Internal Revenue Code.

(3) Take any and all other actions they deem necessary and feasible.

(Formerly Section 31899.8, added by Stats. 1990, Ch. 797 (SB 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.7 and amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 17)

§31899.8. Legislative intent; compliance with I.R.C.; legislative findings and declarations; costs

It is the sole intent of the Legislature, in enacting this chapter, to fully comply with the provisions of the Internal Revenue Code that apply to public retirement systems in order to maintain and ensure the federal income tax exempt status of the county employees' retirement systems, to elect the "grandfather" option in Section 415(b)(10) of the Internal Revenue Code, and to require that each county and district provide benefits that replace the benefits that are limited by Section 415 of the Internal Revenue Code for affected members of the county employees' retirement systems.

The Legislature finds and declares that all costs of local public agencies and local public retirement systems of complying with Section 415 of the Internal Revenue Code are a federal mandate within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2, as construed in City of Sacramento v. State of California (50 Cal. 3d 51).

It is the intent of the Legislature that this chapter not be construed to impose upon local public agencies that are maintaining county retirement systems pursuant to Chapter 3 (commencing with Section 31450) of this part, state-reimbursable, state-mandated local program benefit costs within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2.

If either the Commission on State Mandates or a court determines that this chapter imposes upon any local agency, state-mandated local program benefit costs, notwithstanding any other provision of law, no reimbursement therefor shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 or from any other state fund.

(Formerly Section 31899.9, added by Stats. 1990, Ch. 797 (SB 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.8 and amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 18)

§31899.9. Amendment of chapter; reservation of power; memorandums of understanding

The Legislature reserves the power and right to amend this chapter, as needed to effect its purposes. This chapter shall be controlling over any memorandum of understanding reached between employers and employees pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.

(Formerly Section 31899.10, added by Stats. 1990, Ch. 797 (SB 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.9 and amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 19)

§31899.10. (Renumbered Section 31899.9 and amended by Stats. 2003, Ch. 520 (AB 1585), Sec. 19)

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2023 EDITION

CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013 (PEPRA)

GOVERNMENT CODE
Title 1, Division 7, Chapter 21, Article 4
Excerpts from Sections 7522-7522.74

The 2023 edition of the California Public Employees' Pension Reform Act of 2013 (PEPRA) is excerpted from Sections 7522-7522.74. No additions or amendments were made by the legislature in 2022.

2023 Edition

California Public Employees' Pension Reform Act of 2013

There was no legislation enacted in 2022 adding or amending any of the sections of the California Public Employees' Pension Reform Act of 2013 (PEPRA).

2023 Edition

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CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013

Sections 7522-7522.74

§7522. Short title

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.02. Construction and application of article

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

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

(3)(A) Notwithstanding paragraph (1), this article shall not apply to a public employee whose interests are protected under Section 5333(b) of Title 49 of the United States Code until a federal district court rules that the United States Secretary of Labor, or his or her designee, erred in determining that the application of this article precludes certification under that section, or until January 1, 2016, whichever is sooner.

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

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

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

(c)(1) Individuals who were employed by any public employer before January 1, 2013, and who became employed by a subsequent public employer for the first time on or after January 1, 2013, shall be subject to the retirement plan that would have been available to employees of the subsequent employer who were first employed by the subsequent employer

on or before December 31, 2012, if the individual was subject to concurrent membership for which creditable service was performed in the previous six months or reciprocity established under any of the following provisions:

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

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

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

(D) Section 22115.2 of the Education Code.

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

(d) If a public employer, before January 1, 2013, offers a defined benefit pension plan that provides a defined benefit formula with a lower benefit factor at normal retirement age and results in a lower normal cost than the defined benefit formula required by this article, that employer may continue to offer that defined benefit formula instead of the defined benefit formula required by this article, and shall not be subject to the requirements of Section 7522.10 for pensionable compensation subject to that formula. However, if the employer adopts a new defined benefit formula on or after January 1, 2013, that formula must conform to the requirements of this article or must be determined and certified by the retirement system's chief actuary and the retirement board to have no greater risk and no greater cost to the employer than the defined benefit formula required by this article and must be approved by the Legislature. New members of the defined benefit plan may only participate in the lower cost defined benefit formula that was in place before January 1, 2013, or a defined benefit formula that conforms to the requirements of this article or is approved by the Legislature as provided in this subdivision.

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

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

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

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

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

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 527 (AB 1222), Sec. 1; effective October 4, 2013 as an urgency statute)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 2; effective October 4, 2013 as an urgency statute)

(Amended by Stats. 2014, Ch. 724 (AB 1783), Sec. 1. effective September 28, 2014 as an urgency statute)

(Amended by Stats. 2014, Ch. 757 (SB 1251), Sec. 2)

(Amended by Stats. 2015, Ch. 158 (SB 354), Sec. 1)

(Amended by Stats. 2016, Ch. 531 (SB 24), Sec. 1)

§7522.04. Definitions

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

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

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

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

(e) “New employee” means either of the following:

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

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

(f) “New member” means any of the following:

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

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

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

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

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

(i) “Public employer” means:

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 3, Effective October 4, 2013, as an urgency statute)

§7522.05. Joint powers authority; offering defined benefit plan or formula that existed prior to formation

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

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

(Added by Stats. 2016, Ch. 729 (SB 1203), Sec. 1)

§7522.10. Public retirement systems; modification of plans; use of pensionable compensation in calculation of benefit; contributions in excess of limitation; limitation on pensionable compensation used to calculate required contributions

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

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

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

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

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

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

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

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

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 4, Effective October 4, 2013, as an urgency statute)

§7522.15. Public employers and public retirement systems offering defined benefit plans; defined benefit formulas available to new members

Except as provided in subdivisions (d) and (e) of Section 7522.02, each public employer and each public retirement system that offers a defined benefit plan shall offer only the defined benefit formulas established pursuant to Sections 7522.20 and 7522.25 to new members.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.18. Supplemental defined benefit plans; allowable offerings

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.20. Defined benefit plan for nonsafety members; calculation of benefit

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

Age of retirement	Fraction
52	1.000
52 1/4	1.025
52 1/2	1.050
52 3/4	1.075
53	1.100
53 1/4	1.125
53 1/2	1.150
53 3/4	1.175
54	1.200
54 1/4	1.225
54 1/2	1.250
54 3/4	1.275
55	1.300
55 1/4	1.325
55 1/2	1.350
55 3/4	1.375
56	1.400
56 1/4	1.425
56 1/2	1.450
56 3/4	1.475
57	1.500
57 1/4	1.525
57 1/2	1.550
57 3/4	1.575
58	1.600
58 1/4	1.625
58 1/2	1.650
58 3/4	1.675
59	1.700
59 1/4	1.725
59 1/2	1.750
59 3/4	1.775
60	1.800
60 1/4	1.825
60 1/2	1.850
60 3/4	1.875
61	1.900
61 1/4	1.925
61 1/2	1.950
61 3/4	1.975
62	2.000
62 1/4	2.025
62 1/2	2.050
62 3/4	2.075
63	2.100
63 1/4	2.125
63 1/2	2.150

Age of retirement	Fraction
63 3⁄4	2.175
64	2.200
64 1⁄4	2.225
64 1⁄2	2.250
64 3⁄4	2.275
65	2.300
65 1⁄4	2.325
65 1⁄2	2.350
65 3⁄4	2.375
66	2.400
66 1⁄4	2.425
66 1⁄2	2.450
66 3⁄4	2.475
67	2.500

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 76 (AB 383), Sec. 74)

§7522.25. Defined benefit plan for safety members; calculation of benefit

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

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

Age of retirement	Fraction
50	1.426
50 1⁄4	1.447
50 1⁄2	1.467
50 3⁄4	1.488
51	1.508
51 1⁄4	1.529
51 1⁄2	1.549
51 3⁄4	1.570
52	1.590
52 1⁄4	1.611
52 1⁄2	1.631
52 3⁄4	1.652
53	1.672
53 1⁄4	1.693
53 1⁄2	1.713
53 3⁄4	1.734

Age of retirement	Fraction
54	1.754
54 1/4	1.775
54 1/2	1.795
54 3/4	1.816
55	1.836
55 1/4	1.857
55 1/2	1.877
55 3/4	1.898
56	1.918
56 1/4	1.939
56 1/2	1.959
56 3/4	1.980
57 and over	2.000

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

Age at retirement	Fraction
50	2.000
50 1/4	2.018
50 1/2	2.036
50 3/4	2.054
51	2.071
51 1/4	2.089
51 1/2	2.107
51 3/4	2.125
52	2.143
52 1/4	2.161
52 1/2	2.179
52 3/4	2.196
53	2.214
53 1/4	2.232
53 1/2	2.250
53 3/4	2.268
54	2.286
54 1/4	2.304
54 1/2	2.321
54 3/4	2.339
55	2.357
55 1/4	2.375
55 1/2	2.393
55 3/4	2.411
56	2.429
56 1/4	2.446
56 1/2	2.464
56 3/4	2.482
57 and over	2.500

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

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

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

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

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

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

accordance with applicable laws.

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 5, Effective October 4, 2013, as an urgency statute)

§7522.30. Sharing of normal costs

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

(b) The "normal cost rate" shall mean the annual actuarially determined normal cost for the plan of retirement benefits provided to the new member and shall be established based on the actuarial assumptions used to determine the liabilities and costs as part of the annual actuarial valuation. The plan of retirement benefits shall include any elements that would impact the actuarial determination of the normal cost, including, but not limited to, the retirement formula, eligibility and vesting criteria, ancillary benefit provisions, and any automatic cost-of-living adjustments as determined by the public retirement system.

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

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

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

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

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

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

(f) If the terms of a contract, including a memorandum of understanding, between

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 6, Effective October 4, 2013, as an urgency statute)

7522.32. Determination of benefit paid to new member of public retirement system; final compensation; restrictions on plan modification

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 7, Effective October 4, 2013, as an urgency statute)

§7522.34. Pensionable compensation

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

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

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

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

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

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

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

(5) Payments for unused vacation, annual leave, personal leave, sick leave, or

compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.

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

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

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

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

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

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 8, Effective October 4, 2013, as an urgency statute)

§7522.40. Health benefit vesting schedule

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 9, Effective October 4, 2013, as an urgency statute)

§7522.42. Additional limitations on compensation used for determination of public retirement benefit and employer contributions; exemption

(a) In addition to any other benefit limitation prescribed by law, for the purposes of determining a public retirement benefit paid to a new member of a public retirement system,

the maximum salary, compensation, or payrate taken into account under the plan for any year shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of Title 26 of the United States Code or its successor.

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.43. Replacement benefits; allowable offerings

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 10, Effective October 4, 2013, as an urgency statute)

§7522.44. Enhancements to retirement formula or retirement benefit; application

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

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

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

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

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

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

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

(d) For purposes of this section, an increase to a retiree's annual cost-of-living

adjustment within existing statutory limits shall not be considered to be an enhancement to a retirement benefit.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.46. Purchase of nonqualified service credit prohibited; exemption

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.48. Final compensation

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

(b) Any final compensation calculation shall otherwise be subject to this article except that if any individual period of elective service is less than 36 months or three years, then the entire period of that individual's elected service shall be used to determine the final compensation for that period of service.

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.52. Employer contributions; suspension of contributions; conditions

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

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.56. Retired persons; service and employment restrictions

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

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

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

(d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section shall acquire no service credit or retirement rights under this section with respect to the employment unless he or she reinstates from retirement.

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

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

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

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

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

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

(C) For employees of the California State University, the Trustees of the California State University certifies the nature of the employment and that the appointment is necessary

to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

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

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)
(Amended by Stats. 2013, Ch. 76 (AB 383), Sec. 75)
(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 11, Effective October 4, 2013, as an urgency statute)
(Amended by Stats. 2014, Ch. 238 (AB 2476), Sec. 1)

§7522.57. Retired persons appointed to board or commission after January 1, 2013; service limitations

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

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

(c) A person who is retired from the Public Employees' Retirement System shall not serve on a full-time basis on a state board or commission without reinstatement unless that person serves as a nonsalaried member of the board or commission and receives only per diem authorized to all members of the board or commission. A person who serves as a nonsalaried member of a board or commission shall not earn any service credit or benefits in the Public Employees' Retirement System or make contributions with respect to the service performed.

(d) A person retired from a public retirement system other than the Public Employees'

Retirement System who is appointed on a full-time basis to a state board or commission shall choose one of the following options:

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 76 (AB 383), Sec. 76)

§7522.66. (Repealed by Stats. 2013, c. 528 (SB 13), Sec. 12, eff. Oct 4, 2013, as an urgency statute)

§7522.70. Elected public officers convicted of certain felonies; forfeiture of rights and benefits; contributions returned; notice by agency

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

(b) If an elected public officer is convicted during or after holding office of any felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her official duties as an elected public officer, he or she shall forfeit all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction.

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

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

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

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

(f) An elected public officer shall not forfeit his or her rights and benefits pursuant to

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

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

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

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

(Renumbered §7522.70 and amended by Stats. 2012, Ch. 296 (AB 340), Sec. 9)

(Formerly §1243, added by Stats. 2005, Ch. 322 (AB 1044), Sec. 1)

(Amended by Stats. 2014, Ch. 238 (AB 2476), Sec. 2)

§7522.72. Public employees first employed, elected or appointed before Jan. 1, 2013; conviction of certain felonies; forfeiture of rights and benefits; contributions returned; notifications upon conviction; cost reimbursement; remedies upon final decision reversing conviction; conflicting provisions; provisions applicable to public employees first elected or appointed on or after Jan. 1, 2013

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

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

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

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

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

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

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

pension administrator.

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

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

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

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

(A) The date of conviction.

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

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

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

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

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

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 76 (AB 383), Sec. 77)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 13, Effective October 4, 2013, as an urgency statute)

(Amended by Stats. 2014, Ch. 238 (AB 2476), Sec. 3)

§7522.74. Public employees first employed, elected or appointed on or after Jan. 1, 2013;

conviction of certain felonies; forfeiture of rights and benefits; contributions returned; notifications upon conviction; cost reimbursement; remedies upon final decision reversing conviction; conflicting provisions; provisions applicable to public employees first elected or appointed before Jan. 1, 2013

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

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

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

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

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

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

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

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

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

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

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

(A) The date of conviction.

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

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

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

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

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

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

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

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

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

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 14, Effective October 4, 2013, as an urgency statute)

(Amended by Stats. 2014, Ch. 238 (AB 2476), Sec. 4)

Insert OTHER GOVERNMENT CODE SECTIONS Tab Here

2023 EDITION

OTHER GOVERNMENT CODE SECTIONS APPLICABLE TO CERL SYSTEMS

GOVERNMENT CODE
Title 1, Division 7, Chapter 21, Articles 1 and 5
Excerpts from Sections 7500-7514.7 and 7523-7523.2

The 2023 edition of Other Government Code Sections Applicable to CERL Systems is excerpted from Sections 7500-7514.7 and 7523-7523.2. It contains all additions and amendments made by the legislature in 2022. Additions and amendments are identified by a vertical line along the outside margin on affected pages.

2023 Edition

Other Government Code Sections Applicable to CERL Systems

Legislation enacted in 2022 added or amended the following sections of the Other Government Code Sections applicable to CERL systems. These actions became effective January 1, 2023.

Article/Sections	Added/Amended	Bill	Effective Date	Page
Article 5 Covid-19 Disability Retirement Presumption				
7523.2	Amended	AB 845	01/01/2023	14

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Sections 7500-7514.7

Article 1. General Provisions

§7500. Pension or retirement plans which require employees of one sex to pay greater contributions than members of other sex; revision

Any city with a population of 1,000,000 or more, and any agency thereof, which has established any pension and retirement plan which requires officers and employees of one sex to pay greater contributions than those of another sex who are the same age shall revise the plan so that the contributions are the same commencing with contributions for service on and after January 1, 1975. This section shall not be construed as requiring or authorizing an increase in the contributions of any members of a pension and retirement plan.

This section shall not be applicable to the Public Employees' Retirement System.

(Added by Stats. 1974, Ch. 1478, Sec. 1)

§7501. Legislative intent and purpose

It is the intent and purpose of the Legislature, in enacting this chapter, to safeguard the solvency of all public retirement systems and funds. The Legislature finds and declares that public agencies maintaining retirement systems can benefit from periodic and independent analysis of their financial condition. It is the purpose of Sections 7502, 7503, and 7504 to enable the State Controller to gather information to compare and evaluate the financial condition of such systems and to make such comparisons and evaluations.

(Amended by Stats. 1982, Ch. 821, Sec. 1)

§7502. State Controller; annual and triennial reviews; advisory committee

The Controller shall review the annual financial report of each state and local public retirement system submitted pursuant to Section 7504 giving particular consideration to the adequacy of funding of each system. The Controller shall also review the triennial valuation of each public retirement system submitted pursuant to Section 7504 and shall give particular consideration to the assumption concerning the inflation element in salary and wage increases, mortality, service retirement rates, withdrawal rates, disability retirement rates, and rate of return on total assets.

The Controller shall establish an advisory committee that shall include actuaries who have attained the designation of Associate or Fellow of the Society of Actuaries and state and local public retirement system administrators to assist in carrying out the duties imposed by this section.

(Amended by Stats. 1978, Ch. 388, Sec. 2, effective July 11, 1978)

(Amended by Stats. 2016, Ch. 415 (AB 2375), Sec. 2)

§7503. Annual report

All state and local public retirement systems shall prepare an annual report in accordance with generally accepted accounting principles.

(Amended by Stats. 1978, Ch. 388, Sec. 3, effective July 11, 1978)

§7504. Valuation of system by actuary; audit; reports

(a) All state and local public retirement systems shall, not less than triennially, secure the services of an actuary. For the purposes of this section, "actuary" means an actuary who satisfies the qualification standards for actuaries issuing statements of actuarial opinion in the United States with regard to pensions or other postemployment benefits and who has demonstrated experience in public retirement systems. The actuary shall perform a valuation of the system utilizing actuarial assumptions and techniques established by the agency that are, in the aggregate, reasonably related to the experience and the actuary's best estimate of anticipated experience under the system. Any differences between the actuarial assumptions and techniques used by the actuary that differ significantly from those established by the agency shall be disclosed in the actuary's report and the effect of the differences on the actuary's statement of costs and obligations shall be shown.

(b) All state and local public retirement systems shall secure the services of a qualified person to perform an attest audit of the system's financial statements. A qualified person means any of the following:

(1) A person who is licensed to practice as a certified public accountant in this state by the California Board of Accountancy.

(2) A person who is registered and entitled to practice as a public accountant in this state by the California Board of Accountancy.

(3) A county auditor in any county subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3).

(4) A county auditor in any county having a pension trust and retirement plan established pursuant to Section 53216.

(c) All state and local public retirement systems shall submit audited financial statements to the Controller at the earliest practicable opportunity within six months of the close of each fiscal year. However, the Controller may delay the filing date for reports due in the first year until the time as report forms have been developed that, in his or her judgment, will satisfy the requirements of this section. The financial statements shall be prepared in accordance with generally accepted accounting principles in the form and manner prescribed by the Controller. The penalty prescribed in Section 53895 shall be invoked for failure to comply with this section. Upon a satisfactory showing of good cause, the Controller may waive the penalty for late filing provided by this subdivision.

(d) The Controller shall compile and publish a report annually on the financial condition of all state and local public retirement systems containing, but not limited to, the data required in Section 7502. The report shall be published within 12 months of the receipt of the information, and in no case later than 18 months after the end of the fiscal year upon which the information in the report is based.

(Amended by Stats. 2000, Ch. 1055 (AB 2889), Sec. 24, effective September 30, 2000 as an urgency statute)

(Amended by Stats. 2008, Ch. 369 (AB 1844), Sec. 3)

(Amended by Stats. 2016, Ch. 415 (AB 2375), Sec. 3)

§7505. Transmittal of benefit payments to designated bank, savings and loan association or credit union; discharge of liability

Every state and local public retirement system shall permit any person entitled to the receipt of benefits to designate that payment of such benefits shall be transmitted to a bank, savings and loan association, or credit union for deposit in the person's account, and the transmittal of such payment pursuant to this section shall discharge the public agency's obligations in respect to such payment.

(Added by Stats. 1979, Ch. 454, Sec. 1)

§7507. Definitions; actuarial impact upon future annual costs prior to authorizing increases in benefits; public meetings; application

(a) For the purpose of this section:

(1) "Actuary" means an actuary as defined in Section 7504.

(2) "Future annual costs" includes, but is not limited to, annual dollar changes, or the total dollar changes involved when available, as well as normal cost and any change in accrued liability.

(b)(1) Except as provided in paragraph (2), the Legislature and local legislative bodies, including community college district governing boards, when considering changes in retirement benefits or other postemployment benefits, shall secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal cost and any additional accrued liability, before authorizing changes in public retirement plan benefits or other postemployment benefits.

(2) The requirements of this subdivision do not apply to:

(A) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(B) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(c)(1)(A) With regard to local legislative bodies, including community college district governing boards, the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, shall be made public at a public meeting at least two weeks prior to the adoption of any changes in public retirement plan benefits or other postemployment benefits. If the future costs of the changes exceed one-half of 1 percent of the future annual costs, as defined in paragraph (2) of subdivision (a), of the existing benefits for the legislative body, an actuary shall be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(B) The requirements of this paragraph do not apply to:

(i) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(ii) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(2) With regard to the Legislature, the future costs as determined by the actuary shall be made public at the policy and fiscal committee hearings to consider the adoption of any changes in public retirement plan benefits or other postemployment benefits. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(d) Upon the adoption of any benefit change to which this section applies, the person with the responsibilities of a chief executive officer in an entity providing the benefit, however that person is denominated, shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary. For the adoption of benefit changes by the state, this person shall be the Director of Human Resources.

(e) The requirements of this section do not apply to a school district or a county office of education, which shall instead comply with requirements regarding public notice of, and future cost determination for, benefit changes that have been enacted to regulate these entities. These requirements include, but are not limited to, those enacted by Chapter 1213 of the Statutes of 1991 and by Chapter 52 of the Statutes of 2004.

(Added by Stats. 2008, Ch. 371 (SB 1123), Sec. 3)

(Amended by Gov. Reorg. Plan No. 1 of 2011, Sec. 45, effective September 9, 2011, operative July 1, 2012)

(Amended by Stats. 2012, Ch. 665 (SB 1308), Sec. 41)
(Amended by Stats. 2016, Ch. 415 (AB 2375), Sec. 4)

§7507.2. California Actuarial Advisory Panel; establishment

(a) There is hereby enacted the California Actuarial Advisory Panel. The panel shall provide impartial and independent information on pensions, other postemployment benefits, and best practices to public agencies and shall meet quarterly.

(b) The responsibilities of the California Actuarial Advisory Panel shall include, but are not limited to:

(1) Defining the range of actuarial model policies and best practices for public retirement plan benefits, including pensions and other postemployment benefits.

(2) Developing pricing and disclosure standards for California public sector benefit improvements.

(3) Developing quality control standards for California public sector actuaries.

(4) Gathering model funding policies and practices.

(5) Replying to policy questions from public retirement systems in California.

(6) Providing comment upon request by public agencies.

(c) The California Actuarial Advisory Panel shall consist of eight members. Each member shall be an actuary who has attained the designation of Associate or Fellow of the Society of Actuaries and who has demonstrated experience with public sector clients. Members shall be appointed by the entities listed below, and each member shall serve a three-year term, provided that, in the initial appointments only, the panelists named by the University of California, the Senate, and one of the panelists named by the Governor shall serve two-year terms. The Governor shall appoint two panelists, and one panelist shall be appointed by each of the following:

(1) The Teachers' Retirement Board.

(2) The Board of Administration of the Public Employees' Retirement System.

(3) The State Association of County Retirement Systems.

(4) The Board of Regents of the University of California.

(5) The Speaker of the Assembly.

(6) The Senate Committee on Rules.

(d) The California Actuarial Advisory Panel shall be located in the Controller's office, which shall provide support staff to the panel.

(e) The opinions of the California Actuarial Advisory Panel are nonbinding and advisory only. The opinions of the panel shall not, in any case, be used as the basis for litigation.

(f) A member of the California Actuarial Advisory Panel shall receive reimbursement for expenses that shall be paid by the authority that appointed the member.

(g) The California Actuarial Advisory Panel shall report to the Legislature on or before February 1 of each year.

(Added by Stats. 2008, Ch. 371 (SB 1123), Sec. 4)
(Amended by Stats. 2016, Ch. 415 (AB 2375), Sec. 5)

§7508.5. Member of the retirement board of public pension leaving; acting as agent or attorney for compensation

Except as otherwise provided in Section 20098 or 31528 of this code, or Section 22212.5 of the Education Code, an individual who was a member of the retirement board of a public pension or retirement system, as defined in subdivision (h) of Section 17 of Article XVI of the California Constitution, or an administrator, executive officer, investment officer, or general

counsel of that board, shall not, for a period of two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any other person except the public entity maintaining that pension or retirement system, by making any formal or informal appearance before, or any oral or written communication to, the pension or retirement system, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

(Added by Stats. 2009, Ch. 301 (AB 1584), Sec. 2, Effective October 11, 2009, as an urgency statute)

§7509. Restrictions on rates of interest in Const. Art. 15, §1; inapplicability to state or local public retirement system

(a) The restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any loans made by, or forbearances of, any state or local public retirement system, including, but not limited to, any public retirement system authorized and regulated by the State Teachers' Retirement Law, the Public Employees' Retirement Law, the County Employees Retirement Law of 1937, any public retirement system administered by the Teachers Retirement Board or Board of Administration of the Public Employees' Retirement System, or any public retirement system acting pursuant to the laws of this state or the laws of any local agency.

(b) For the purposes of this section, "local agency" means county, city, city and county, district, school district, or any public or municipal corporation, political subdivision, or other public agency of the state, or any instrumentality of one or more of these agencies.

(c) This section creates and authorizes any state or local retirement system as an exempt class of persons pursuant to Section 1 of Article XV of the California Constitution.

(Added by Stats. 1982, Ch. 821, Sec. 2)

(Amended by Stats. 2006, Ch. 538 (SB 1852), Sec. 236)

§7510. Investments in real property; governmental services fee; taxes; applicability

(a)(1) Except as provided in subdivision (b), a public retirement system, which has invested assets in real property and improvements thereon for business or residential purposes for the production of income, shall pay annually to the city or county, in whose jurisdiction the real property is located and has been removed from the secured roll, a fee for general governmental services equal to the difference between the amount that would have accrued as real property secured taxes and the amount of possessory interest unsecured taxes paid for that property. The governing bodies of local entities may adopt ordinances and regulations authorizing retirement systems to invest assets in real property subject to the foregoing requirements.

(2) This subdivision shall not apply to any retirement system which is established by a local governmental entity if that entity is presently authorized by statute or ordinance to invest retirement assets in real property.

(3) This subdivision shall not apply to property owned by any state public retirement system.

(b)(1) Whenever a state public retirement system, which has invested assets in real property and improvements thereon for business or residential purposes for the production of income, leases the property, the lease shall provide, pursuant to Section 107.6 of the Revenue and Taxation Code, that the lessee's possessory interest may be subject to property taxation and that the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on that interest. The lease shall be valued in accordance with Section 21

of Title 18 of the California Code of Regulations, as that section was in effect on January 1, 2015, for the valuation of taxable possessory interests.

(2) Except as provided in this subdivision, the property shall be assessed and its taxes computed and collected in the same manner as privately owned property. The lessee's possessory interest shall be placed on the unsecured roll and the tax on the possessory interest shall be subject to the collection procedures for unsecured property taxes.

(3) An investment by a state public retirement system in a legal entity that invests assets in real property and improvements thereon shall not constitute an investment by the state public retirement system of assets in real property and improvements thereon. For purposes of this paragraph, "legal entity" includes, but is not limited to, partnership, joint venture, corporation, trust, or association. When a state public retirement system invests in a legal entity, the state public retirement system shall be deemed to be a person for the purpose of determining a change in ownership under Section 64 of the Revenue and Taxation Code.

(4) Notwithstanding any other provision of law, fees charged pursuant to this section and collected prior to July 1, 1992, shall be deemed valid and not refundable under any circumstance. Notwithstanding any other provision of law, fees, interest and penalties, if any, asserted to be due pursuant to this section that were not charged or collected prior to July 1, 1992, shall be deemed invalid and not collectable under any circumstance.

(5) This subdivision shall apply to the assessment, computation, and collection of taxes for the fiscal year beginning on July 1, 1992, and each fiscal year thereafter. For the 1992-93 and 1993-94 fiscal years, in the case where a lessee's possessory interest existed for less than the full fiscal year for which the tax was levied, the amount of tax shall be prorated in accordance with the number of months for which the lessee's interest existed.

(Added by Stats. 1982, Ch. 24, p. 41, Sec. 2)
(Amended by Stats. 1992, Ch. 1158 (SB 1687), Sec. 1)
(Amended by Stats. 1993, Ch. 454 (SB 803), Sec. 1)
(Amended by Stats. 1994, Ch. 1281 (SB 1972), Sec. 1)
(Amended by Stats. 2015, Ch. 454 (SB 803), Sec. 1)

§7511. Liability insurance; fiduciaries

Notwithstanding any other provision to the contrary:

(a) A public retirement system may purchase insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by the fiduciary.

(b) A fiduciary may purchase insurance to cover liability under this section from and for his or her own account.

(c) An employer or an employee organization may purchase insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to an employee benefit plan.

(Added by Stats. 1984, Ch. 1503, Sec. 4)

§7512. Annual report of earnings and investments; distribution; optional fee

Each state and local public pension or retirement system shall, on and after the 90th day following the completion of the annual audit of the system, mail or otherwise provide to any member who makes a request therefor and pays, if required, a fee, a concise annual report on the investments and earnings of the system and other related matters. The report shall be published in a low-cost format.

Each local public pension or retirement system may impose a fee for each copy of the report in an amount sufficient to pay all costs incurred in the preparation and dissemination of

the report.

(Amended by Stats. 1991, Ch. 281 (AB 113), Sec. 1)

§7513. Direct rollover of distributions to eligible retirement plan; election

(a) In the case of a state or local retirement system or plan that is subject to Section 401(a)(31) of the Internal Revenue Code, if, under the terms of the system or plan, a person becomes entitled to a distribution that constitutes an "eligible rollover distribution" within the meaning of Section 401(a)(31)(C) of the Internal Revenue Code, the person may elect, under terms and conditions to be established by the administrator of the system or plan, to have the distribution or a portion thereof paid directly to a plan that constitutes an "eligible retirement plan" within the meaning of Section 401(a)(31)(D) of the Internal Revenue Code, as specified by the person. Upon the exercise of the election by a person with respect to a distribution or portion thereof, the distribution by the system or plan of the amount so designated, once distributable under the terms of the system or plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

(b) The purpose and intent of this section is to enable the state and local retirement systems and plans that are subject to Section 401(a)(31) of the Internal Revenue Code of 1986, as amended, to comply with the requirements of that section regarding the provision of an election for direct rollover of certain plan distributions.

(Added by Stats. 1992, Ch. 1047 (AB 2721), Sec. 1)

§7513.8. Definitions

As used in this section and Sections 7513.85, 7513.86, 7513.87, 7513.9, and 7513.95:

(a) "Board" means the retirement board of a public pension or retirement system, as defined in subdivision (h) of Section 17 of Article XVI of the California Constitution.

(b) "External manager" means either of the following:

(1) A person who is seeking to be, or is, retained by a board or an investment vehicle to manage a portfolio of securities or other assets for compensation.

(2) A person who manages an investment fund and who offers or sells, or has offered or sold, an ownership interest in the investment fund to a board or an investment vehicle.

(c) (1) "Investment fund" means a private equity fund, public equity fund, venture capital fund, hedge fund, fixed income fund, real estate fund, infrastructure fund, or similar pooled investment entity that is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, owning, holding, or trading securities or other assets.

(2) Notwithstanding paragraph (1), an investment company that is registered with the Securities and Exchange Commission pursuant to the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) and that makes a public offering of its securities is not an investment fund.

(d) "Investment vehicle" means a corporation, partnership, limited partnership, limited liability company, association, or other entity, either domestic or foreign, managed by an external manager in which a board is the majority investor and that is organized in order to invest with, or retain the investment management services of, other external managers.

(e) "Person" means an individual, corporation, partnership, limited partnership, limited liability company, or association, either domestic or foreign.

(f) (1) "Placement agent" means any person directly or indirectly hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager or an investment fund managed by an external manager, and who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale to a board or an investment vehicle either of the following:

(A) In the case of an external manager within the meaning of paragraph (1) of subdivision (b), the investment management services of the external manager.

(B) In the case of an external manager within the meaning of paragraph (2) of subdivision (b), an ownership interest in an investment fund managed by the external manager.

(2) Notwithstanding paragraph (1), an individual who is an employee, officer, director, equityholder, partner, member, or trustee of an external manager and who spends one-third or more of his or her time, during a calendar year, managing the securities or assets owned, controlled, invested, or held by the external manager is not a placement agent.

(Added by Stats. 2009, Ch. 301 (AB 1584), Sec. 3, effective October 11, 2009, as an urgency statute)

(Amended by Stats. 2010, Ch. 668 (AB 1743), Sec. 1)

(Amended by Stats. 2011, Ch. 704 (SB 398), Sec. 1, effective October 9, 2011, as an urgency statute)

§7513.85. Development and implementation of policy requiring disclosure of payments to placement agents; requirements; violations

(a) The board shall develop and implement, on or before June 30, 2010, a policy requiring the disclosure of payments to placement agents in connection with system investments in or through external managers. The policy shall include, but not be limited to, the following requirements:

(1) Disclosure of the existence of relationships between external managers and placement agents.

(2) A resume for each officer, partner, or principal of the placement agent detailing the person's education, professional designations, regulatory licenses, and investment and work experience.

(3) A description of any and all compensation of any kind provided, or agreed to be provided, to a placement agent.

(4) A description of the services to be performed by the placement agent.

(5) A statement whether the placement agent, or any of its affiliates, are registered with the Securities and Exchange Commission or the Financial Industry Regulatory Association, or any similar regulatory agent in a country other than the United States, and the details of that registration or explanation as to why no registration is required.

(6) A statement whether the placement agent, or any of its affiliates, is registered as a lobbyist with any state or national government.

(b) Any external manager or placement agent that violates the policy shall not solicit new investments from the system for five years after the violation was committed. However, this prohibition may be reduced by a majority vote of the board at a public session upon a showing of good cause.

(c) The system shall not enter into any agreement with an external manager that does not agree in writing to comply with the policy.

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

(Added by Stats. 2009, Ch. 301 (AB 1584), Sec. 4, effective October 11, 2009, as an urgency statute)

§7513.86. Placement agent requirements

Except as provided in subdivisions (b) and (c) of Section 82047.3, a person shall not act as a placement agent in connection with any potential system investment made by a

state public retirement system unless that person is registered as a lobbyist in accordance with Chapter 6 (commencing with Section 86100) of Title 9 and is in full compliance with the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)) as that act applies to lobbyists.

(Added by Stats. 2010, Ch. 668 (AB 1743), Sec. 2)

§7513.87. Placement agent; compliance with local government agency requirements

(a) A person acting as a placement agent in connection with any potential system investment made by a local public retirement system shall file any applicable reports with a local government agency that requires lobbyists to register and file reports and shall comply with any applicable requirements imposed by a local government agency pursuant to Section 81013.

(b) This section does not apply to either of the following:

(1) An individual who is an employee, officer, director, equityholder, partner, member, or trustee of an external manager who spends one-third or more of his or her time, during a calendar year, managing the securities or assets owned, controlled, invested, or held by the external manager.

(2) An employee, officer, or director of an external manager, or of an affiliate of an external manager, if all of the following apply:

(A) The external manager is registered as an investment adviser or a broker-dealer with the Securities and Exchange Commission or, if exempt from or not subject to registration with the Securities and Exchange Commission, any appropriate state securities regulator.

(B) The external manager is participating in a competitive bidding process, such as a request for proposals, or has been selected through that process and is providing services pursuant to a contract executed as a result of that competitive bidding process.

(C) The external manager, if selected through a competitive bidding process described in subparagraph (B), has agreed to a fiduciary standard of care, as defined by the standards of conduct applicable to the retirement board of a public pension or retirement system and set forth in Section 17 of Article XVI of the California Constitution, when managing a portfolio of assets of a public retirement system in California.

(Added by Stats. 2010, Ch. 668 (AB 1743), Sec. 3)

(Amended by Stats. 2011, Ch. 296 (AB 1023), Sec. 116)

(Amended by Stats. 2011, Ch. 704 (SB 398), Sec. 2, effective October 9, 2011, as an urgency statute)

§7513.9. Disclosure of campaign contributions and gifts by placement agent

(a) Any placement agent, prior to acting as a placement agent in connection with any potential system investment, shall disclose to the board all campaign contributions made by the placement agent to any elected member of the board during the prior 24-month period. Additionally, any subsequent campaign contribution made by the placement agent to an elected member of the board during the time the placement agent is receiving compensation in connection with a system investment shall also be disclosed.

(b) Any placement agent, prior to acting as a placement agent in connection with any potential system investment, shall disclose to the board all gifts, as defined in Section 82028, given by the placement agent to any member of the board during the prior 24-month period. Additionally, any subsequent gift given by the placement agent to any member of the board during the time the placement agent is receiving compensation in connection with a system investment shall also be disclosed.

(Added by Stats. 2009, Ch. 301 (AB 1584), Sec. 5, effective October 11, 2009, as an

urgency statute)

§7513.95. Directly or indirectly selling of investment products by board member or employee

A member or employee of the board shall not, directly or indirectly, by himself or herself, or as an agent, partner, or employee of a person or entity other than the board, sell or provide any investment product that would be considered an asset of the fund to any public retirement system in California.

(Added by Stats. 2009, Ch. 301 (AB 1584), Sec. 6, effective October 11, 2009, as an urgency statute)

§7513.97. Definitions

As used in Section 11 of Article VII of the Constitution, the following terms have the following meanings:

(a) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality tables adopted and the actuarial interest rate fixed by the Board of Administration of the Public Employees' Retirement System.

(b) "Beneficiary" means any person or corporation designated by a member, a retired member, or statute, or the estate of a member or retired member designated by the member or retired member, to receive a benefit under the retirement system, on account of the death of the member or retired member.

(c) "Salary" means the actual wages paid but shall not include any other benefits, such as, but not limited to, health and dental benefits, retirement benefits, vacation pay, and per diem.

(d) "Unmodified pension or retirement allowance" means the maximum pension or retirement allowance receivable, prior to any selection of an optional settlement and includes any cost-of-living adjustment and any other increase granted subsequent to retirement.

(Formerly §7514, added by Stats. 1984, Ch. 220, Sec. 1, operative June 3, 1986. Renumbered and amended by Stats. 2011, Ch. 296 (AB 1023), Sec. 117)

§7514. Investment of assets; bonds or other indebtedness unconditionally guaranteed by foreign government

(a) Notwithstanding any other provision of law except Chapter 7 (commencing with Section 16649.80) of Part 2 of Division 4 of Title 2, any state or local public retirement system may invest, subject to and consistent with the standard for prudent investment set forth in Section 17 of Article XVI of the California Constitution, its assets in the bonds or other evidences of indebtedness unconditionally guaranteed by any foreign government that has met the payments of similar bonds or other evidences of indebtedness when due.

(b) A portion of the assets invested pursuant to this section may be used to purchase rated or unrated bonds, notes, or other instruments unconditionally guaranteed by Canada, Israel, Mexico, or South Africa.

(Amended by Stats. 1994, Ch. 30 (SB 1285), Sec. 1, effective March 30, 1994)

(Amended by Stats. 1994, Ch. 31 (AB 2448), Sec. 1, effective March 30, 1994)

(Amended by Stats. 1994, Ch. 46 (AB 2237), Sec. 1)

§7514.1. Investments; guidelines

Notwithstanding any other provision of law except Chapter 7 (commencing with Section 16649.80) of Part 2 of Division 4 of Title 2, any state or local public retirement system may invest, subject to and consistent with the standard for prudent investment set forth in Section 17 of Article XVI of the California Constitution, and the state and any political subdivision of the state may, invest its assets in rated bonds, notes, or other obligations

issued, assumed, or unconditionally guaranteed by the African Development Bank, the Asian Development Bank, the Caribbean Development Bank, the Inter-American Development Bank, the International Finance Corporation, the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, and any other international financial institution that has met the payments of similar bonds, notes, or other obligations when due and in which the United States is a member.

(Amended by Stats. 1995, Ch. 91 (SB 975), Sec. 45)

§7514.2. Board may prioritize investments in in-state infrastructure projects

(a) As used in this section, the following definitions shall apply:

(1) "Board" means the Board of Administration of the Public Employees' Retirement System, the Teachers' Retirement Board, or the board of retirement or board of investments of a retirement system established pursuant to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3).

(2) "Infrastructure" includes, but is not limited to, telecommunications, power, transportation, ports, petrochemical, and utilities.

(b) A board may, subject to and consistent with its fiduciary duties and the standard for prudent investment set forth in Section 20190 of this code, Section 22203 of the Education Code, and Section 17 of Article XVI of the California Constitution, prioritize investment in an in-state infrastructure project over a comparable out-of-state project.

(c) The Legislature encourages each board to prioritize investment in in-state infrastructure projects over alternative out-of-state infrastructure projects if the investments in the in-state projects are consistent with the board's fiduciary duties to minimize the risk of loss and to maximize the rate of return.

(d) Nothing in this section shall require a board to take action that is inconsistent with its plenary authority and fiduciary responsibilities, as described in Section 17 of Article XVI of the California Constitution.

(Added by Stats. 2012, Ch. 760 (SB 955), Sec. 2)

(Amended by Stats 2013, Ch. 766 (AB 205), Sec. 1)

§7514.5. Rights conditional upon employment within a specified period of time after termination

Notwithstanding any other provision of law, whenever the rights of a member of the Public Employees' Retirement System, the State Teachers' Retirement System, or a retirement system established under the County Employees Retirement Law of 1937, because of membership in another retirement system, are conditional upon employment within a specified period of time after termination of service in another retirement system, that specified period shall be the period of service in full-time elective office on and after November 6, 1990, if the member was a full-time elective officer on or after that date and becomes a member of any of those retirement systems within 120 days after termination of the full-time elective office.

(Added by Stats. 1998, Ch. 1074 (SB 1021), Sec. 1, effective September 30, 1998, as an urgency statute)

§7514.7. Public investment funds; alternative investment vehicles; disclosures

(a) Every public investment fund shall require each alternative investment vehicle in which it invests to make the following disclosures at least annually:

(1) The fees and expenses that the public investment fund pays directly to the alternative investment vehicle, the fund manager, or related parties.

(2) The public investment fund's pro rata share of fees and expenses not included in paragraph (1) that are paid from the alternative investment vehicle to the fund manager or related parties. The public investment fund may independently calculate this information

based on information contractually required to be provided by the alternative investment vehicle to the public investment fund. If the public investment fund independently calculates this information, then the alternative investment vehicle shall not be required to provide the information identified in this paragraph.

(3) The public investment fund's pro rata share of carried interest distributed to the fund manager or related parties.

(4) The public investment fund's pro rata share of aggregate fees and expenses paid by all of the portfolio companies held within the alternative investment vehicle to the fund manager or related parties.

(5) Any additional information described in subdivision (c) of Section 7928.710.

(b) Every public investment fund shall disclose the information provided pursuant to subdivision (a) at least once annually in a report presented at a meeting open to the public. The public investment fund's report required pursuant to this subdivision shall also include the gross and net rate of return of each alternative investment vehicle, since inception, in which the public investment fund participates. The public investment fund may report the gross and net rate of return and information required by subdivision (a) based on its own calculations or based on calculations provided by the alternative investment vehicle.

(c) For purposes of this section:

(1) "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or absolute return fund.

(2) "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure through which a public investment fund invests in an alternative investment.

(3) "Fund manager" means the general partner, managing manager, adviser, or other person or entity with primary investment decision making authority over an alternative investment vehicle and related parties of the fund manager.

(4) "Carried interest" means any share of profits from an alternative investment vehicle that is distributed to a fund manager, general partner, or related parties, including allocations of alternative investment vehicle profits received by a fund manager in consideration of having waived fees that it might otherwise have been entitled to receive.

(5) "Portfolio companies" means individual portfolio investments made by the alternative investment vehicle.

(6) "Gross rate of return" means the internal rate of return for the alternative investment vehicle prior to the reduction of fees and expenses described in subdivision (a).

(7) "Public investment fund" means any fund of any public pension or retirement system, including that of the University of California.

(8) "Operational person" means any operational partner, senior advisor, or other consultant or employee whose primary activity for a relevant entity is to provide operational or back office support to any portfolio company of any alternative investment vehicle, account, or fund managed by a related person.

(9) "Related person" means any current or former employee, manager, or partner of any related entity that is involved in the investment activities or accounting and valuation functions of the relevant entity or any of their respective family members.

(10) "Related party" means:

(A) Any related person.

(B) Any operational person.

(C) Any entity more than 10 percent of the ownership of which is held directly or indirectly, whether through other entities or trusts, by a related person or operational person regardless if the related person or operational person participates in the carried interest

received by the general partner or the special limited partner.

(D) Any consulting, legal, or other service provider regularly engaged by portfolio companies of an alternative investment vehicle, account, or fund managed by a related person and that also provides advice or services to any related person or relevant entity.

(11) "Relevant entity" means the general partner, any separate carry vehicle, the investor advisor, any of the investment advisor's parent or subsidiary entities, or any similar entity related to any other alternative investment vehicle, account, or fund advised or managed by any current or former related person.

(d)(1) This section applies to all new contracts the public investment fund enters into on or after January 1, 2017, and to all existing contracts pursuant to which the public investment fund makes a new capital commitment on or after January 1, 2017.

(2) With respect to existing contracts not covered by paragraph (1), the public investment fund shall undertake reasonable efforts to obtain the information described in subdivision (a) and comply with the reporting requirements contained in subdivision (b) with respect to any information obtained after January 1, 2017.

(Added by Stats. 2016, Ch. 361 (AB 2833), Sec. 2)

(Amended by Stats. 2017, Ch. 561 (AB 1516), Sec. 68)

(Amended by Stats. 2021, Ch. 615 (AB 474), Sec. 148)

Article 5

Covid-19 Disability Retirement Presumption

§7523. Definitions

For purposes of this article:

(a) "COVID-19" means the 2019 novel coronavirus disease.

(b)(1) "Member" means a member of a public retirement system who meets either of the following:

(A) Whose job classification is either described in subdivision (a) of Section 3212.87 of the Labor Code or is the functional equivalent of a job classification described in that subdivision.

(B) Whose job classification is neither described in subdivision (a) of Section 3212.87 nor is the functional equivalent of a job classification described in that subdivision, but who tests positive during an outbreak at the member's specific place of employment. The definitions set forth in subdivision (m) of Section 3212.88 of the Labor Code shall apply to this subparagraph.

(b)(2) Paragraph (1) shall only apply to a member of a public retirement system, as defined pursuant to subdivision (c).

(c) "Public retirement system" means any public employee retirement system that is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522)).

(Added by Stats. 2021, Ch. 122 (AB 845), Sec. 10)

§7523.1. Presumption that disability arose out of, or in the course of, the member's employment; rebuttal

(a) For purposes of a member who retires for disability on the basis, in whole or in part, of a COVID-19-related illness, it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement

system shall be bound to find in accordance with the presumption.

(Added by Stats. 2021, Ch. 122 (AB 845), Sec. 10)

§7523.2. Duration of article

This article shall remain in effect only until January 1, 2024, and as of that date is repealed.

(Added by Stats. 2021, Ch. 122 (AB 845), Sec. 10)
(Amended by Stats. 2022, Ch. 741 (AB 551), Sec. 1)

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