



CCCERA LAWBOOK

CONSTITUTIONAL AND STATUTORY PROVISIONS FROM THE COUNTY EMPLOYEES RETIREMENT LAW OF 1937

CALIFORNIA GOVERNMENT CODE

Title 3, Division 4, Part 3, Chapter 3 and 3.9

Sections 31450-31899.10

Includes Additions and Amendments of 2010

Effective January 1, 2011

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INTRODUCTION

The Contra Costa County Employees' Retirement Association ("CCCERA") is governed by the County Employees Retirement Law of 1937 ("CERL" or "'37 Act"), contained in California Government Code sections 31450 to 31898, and Article 16, Section 17 of the California Constitution. Some sections of the CERL, however, do not apply to CCCERA because they specify that they only apply to other counties. Additionally, some sections of the CERL specify that they only apply if adopted locally by a county ordinance, resolution, or other adoption action by the governing board of the County or District, or by the Retirement Board.

This book, the CCCERA Lawbook, brings together under one cover all the CERL provisions that govern CCCERA, and excludes the CERL provisions that do not apply to CCCERA, through the 2009-2010 legislative session. Where applicable, local adoption of certain provisions is noted below the relevant statutory section in this Lawbook.

Please note that since the law governing CCCERA is statutory, it is subject to change by the legislature. To obtain the most current statutory provisions, please check the California Government Code.

We hope you find this Lawbook useful.

Karen G. Levy
General Counsel

CALIFORNIA CONSTITUTION

ARTICLE 16 – PUBLIC FINANCE

SECTION 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.

COUNTY EMPLOYEES RETIREMENT LAW OF 1937

CALIFORNIA GOVERNMENT CODE

Title 3, Division 4, Part 3, Chapter 3 and 3.9
Sections 31450-31899.10

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, 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 (A.B. 1585), Sec.1)

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

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, 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 the purpose of paying premiums on any policy or certificate of group life insurance or group disability insurance issued by an admitted insurer, for any prepaid group medical or hospital service plan, or both, for any vision care program or dental plan, approved by the board, for the benefit of the retired member or his or her dependents, for the payment of premiums on national service life insurance or United States government converted insurance, for the purchase of shares in or the payment of money to any regularly chartered credit union, for charitable organizations or federally chartered veterans' organizations as approved by both the board of retirement and the board of supervisors, or for the purchase of United States Savings Bonds, or for the payment of personal income taxes to the government of the United States or of the State of California, and each month shall draw his or her order in favor of the insurer, institution, credit union, or government named in the written authorization for an amount equal to the deductions so authorized and made during the month. 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 (A.B. 1021), Sec. 1)

(Amended by Stats. 2007, Ch. 331 (A.B. 1288), Sec. 1)

§31452.6. Authorization for delivery of warrant to specified bank, savings and loan association or credit union; discharge of liability

(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, 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 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 (A.B. 1021), Sec. 2)

(Amended by Stats. 2004, Ch. 506 (A.B. 3094), Sec. 4)

§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.

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

§31453. Actuarial valuation; recommendation in change of rate 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 a 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 (A.B. 538), Sec. 1)

[Subdivision (a) only]

§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 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.

(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.

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

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

[Subdivision (a) only]

§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 (A.B. 538), Sec. 3)

[Subdivisions (a) and (c) only]

§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)

§31455. Controlling definitions and general provisions

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

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

§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 (A.B. 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)

§31458.4. 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 (S.B. 792), Sec. 2)

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

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

(Amended and renumbered by Stats. 1998, Ch. 132 (S.B. 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(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 (A.B. 246), Sec. 1)

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

§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

“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.

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

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

§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 (A.B. 2331), Sec. 2)

(Amended by Stats. 2001, Ch. 159 (S.B. 662), Sec. 116)

§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 (S.B. 1789), Sec. 1)

§31461.6. Compensation earnable; defined

“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.

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

§31462. “Final Compensation” defined

“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 files an application for retirement, or, if he fails to elect, during the three years immediately preceding his retirement. If a member has less than three years of service, his final compensation shall be determined by dividing his total compensation by the number of months of service credited to him and multiplying by 12.

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

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

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

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. 1970, Ch. 316, Sec. 1)

[BOS Res. 1972/425 (Jul. 1, 1972); BOS Res. 1972/425-A (Jun. 26, 1972)]

§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)

[BOS Res. 1975/519 (Jun. 30, 1975), eff. Jul. 1, 1975)

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

“Final compensation” for members whose service is on a tenure which 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.

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

(Added by Stats. 1955, Ch. 1756, 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 Sections 31504 and 31627.

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

§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”

(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.

(1) (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.

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

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

(Amended by Stats. 2006, Ch. 369 (S.B. 777), 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 (S.B. 2139), Sec. 213, Effective September 28, 1998)

(Amended by Stats. 2006, Ch. 538 (S.B. 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 (A.B. 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 (A.B. 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 (A.B. 2023), Sec. 10)

§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)

§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 (All, San Diego, Sacramento)

(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 (A.B. 439), Sec. 2)

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

[Subdivision (a) only]

§31470.3. Persons ineligible (All, San Diego)

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 (A.B. 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)

[Subdivision (a) only]

§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)

[BOS Res. 1970/349]

§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)

§31470.13. 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 (A.B. 2764), Sec. 4)

[BOS Res. 1999/330 (Jun. 22, 1999), eff. Jul. 1, 1999]

[BOS Res. 2006/735 (Nov. 14, 2006), eff. Nov. 1, 2006]

§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)

§31472. “Regular interest” defined

“Regular interest” means interest at 2 1/2 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)

[BOS Res. 1970/349]

§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)

[BOS Res. 1970/349]

§31479.1. Credit for service as unpaid city councilman

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. 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. 554, Sec. 1, Effective August 27, 1974)

(Amended by Stats. 2010, Ch. 669 (SB894), Sec. 6)

[BOS Res. 1975/593 (Jul. 31, 1975)]

§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)

[BOS Res. 1991/18 (Jan. 8, 1991)]

§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)

[BOS Res. 1970/349]

§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. Supplemental Defined Benefit Plan; Application; Concurrent participation with public retirement system plan; 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 401(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.

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

§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)

§31484.9. (Repealed January 1, 2012) 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 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 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 provision of 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.

(d) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date. The repeal of this section shall have no effect on actions taken under this section prior to the repeal of this section.

(Added by Stats. 2006, Ch. 633 (S.B. 524), Sec. 1)

[BOS Res. 2006/770 (Dec. 12, 2006), eff. Jan. 1, 2007]

§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 (A.B. 1021), Sec. 4)

§31485.7. Retirement service credit; Time frame of 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 (S.B. 792), Sec. 4)

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

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

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

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

[BOS Res. 1997/468 (Sep. 9, 1997)]

§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 (A.B. 1587), Sec. 1)

(Amended by Stats. 2007, Ch. 86 (A.B. 1255), Sec. 1, effective July 17, 2007 as an urgency statute)

§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 (A.B. 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 (A.B. 1626), Sec. 2)

(Amended by Stats. 2009, Ch. 140 (A.B. 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 (A.B. 1626), Sec. 3)

§ 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)

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 2.7 - General Limitations

(Article 2.7 added by Stats. 1995, Ch. 558 (S.B. 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 1937 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 (S.B. 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 (S.B. 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 (S.B. 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 fulltime 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 (S.B. 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; vote of 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. If there is no eligible candidate there

may not be an alternate 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 members shall serve for a term of two years beginning January 1, 1952, or the date on which a retirement system established by this chapter becomes operative, whichever is the later. 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 members are three years.

(b) The alternate 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 member shall fill the vacancy until a successor qualifies. The alternate 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) Unless prohibited by a resolution or regulation of the board, the alternate member shall be entitled to both of the following:

(1) The alternate member shall have the same rights, privileges, responsibilities, and access to closed sessions as the second, third, seventh, and eighth member.

(2) The alternate 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 its committees whether or not the second, third, seventh, or eighth member is present.

(d) The amendments to this section during the 1972 Regular Session do not affect the continuation on the board of retired members appointed by the board of supervisors until the expiration of the term for which they were appointed.

(Amended by Stats. 1977, Ch. 357, Sec. 1)

(Amended by Stats. 2003, Ch. 852 (A.B. 1587), Sec. 2)

(Amended by Stats. 2007, Ch. 327 (A.B. 1124), Sec. 1)

§31520.12. Appointment of alternate for fourth, fifth, sixth, and ninth members in counties subject to Articles 6.8 and 7.5 in county of ninth class.

(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 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) 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 (A.B. 719), Sec. 1)

[Measure M (Nov. 7, 2006); County Code Art. 38-4.10; Ord. 2006-40 §4

§31520.2. Board of investments in certain counties

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 and, on the effective date of the amendment to this section during the 1970 Regular Session, shall also be members of the board of retirement. The fourth member shall be a safety member elected by the safety membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1970 Regular Session, shall also be a member of the board of retirement. The eighth member shall be a retired member of the association elected by the retired membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1976 Regular Session, shall also be a member of the board of retirement. 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 three years, the second person chosen shall serve a four-year term, and the third person chosen shall serve a two-year term. The ninth member shall be appointed for the balance of a term ending December 31, 1978. Thereafter, all terms of all appointed members shall be three years. The general members, the

safety member, and the retired member shall serve on the board of investment until their current term as members of the board of retirement expires.

The board of investment shall be responsible for all investments of the retirement system.
(Amended by Stats. 1976, Ch. 1198, Sec. 1)

§31520.5. Counties with 9-member retirement boards; appointment of alternate retired member; term

(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 qualified 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. An organization shall be deemed to be a “qualified retiree organization” for purposes of this subdivision if a majority of the members of the organization are retired members of the system.

(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 until a successor qualifies. Except as provided in subdivision (c) and as otherwise provided in this subdivision, 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.

(c) 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 its committees whether or not the eighth member is present, unless prohibited by resolution or regulation of the board.

(d) 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.

(e) (1) If this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate safety 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 safety member may sit and act for the eighth member as described in Section 31520.1.

(Added by Stats. 1992, Ch. 96, Sec. 2, Effective June 18, 1992)

(Amended by Stats. 2000, Ch. 486 (A.B. 2291), Sec. 1)

(Amended by Stats. 2001, Ch. 168 (A.B. 1665), Sec. 1)

(Amended by Stats. 2003, Ch. 852 (A.B. 1587), Sec. 3)

(Amended by Stats. 2004, Ch. 183 (A.B. 3082), Sec. 168, Ch. 441 (A.B. 979), Sec. 1; Ch. 441 prevails)

(Amended by Stats. 2007, Ch. 320 (A.B. 753), Sec. 2)

§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 (A.B. 1766), Sec. 1)

(Amended by Stats. 2007 Ch. 320 (A.B. 753), Sec. 3)

[BOS Action (Apr. 20, 1999)]

§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 (A.B. 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)

[BOS Res. 1988/349 (Jun. 14, 1988), eff. Jul. 1, 1988]

§31522.6. Contract with third party to administer system; Cost

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 (A.B. 2234), Sec. 19)

§31523. Filling vacancies

If a vacancy on the board occurs for any cause or on the expiration of the term of office of any member, a successor shall be chosen in the same manner as was his predecessor, except that if an election to fill a vacancy for the second, third, seventh or eighth member has been called and only one member has been duly nominated in accordance with the rules established for the holding of such 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 such nominated member.

(Amended by Stats. 1973, Ch. 69, Sec. 3)

§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 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 such other information as is required by the board.

(c) For forms of annuity certificates and for such other forms as are required.

(Amended by Stats. 1961, Ch. 1852, Sec. 3)

§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 which 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 or 16. Such a provision may be adopted in anticipation of, and prior to Article 15.5 or 16 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, provided 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, provided that the day shall be no earlier than 12 weeks prior to the member's termination from employment.

(Amended by Stats. 1967, Ch. 492, Sec. 1)

(Amended by Stats. 2010, Ch. 158 (SB 1479), Sec. 1)

§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 (A.B. 246), Sec. 3)

(Amended by Stats. 2009, Ch. 301 (A.B. 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)

§31529.5. 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)

[BOS Res. 1978/37 (Jan. 10, 1978)]

§31529.9. Legal services (Orange, Kern, San Joaquin, Santa Barbara, San Bernardino)

(a) In addition to the powers granted by Sections 31522.5, 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, 14th class, 15th class, or the 16th class as described by Sections 28020, 28023, 28028, 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 (A.B. 2633), Sec. 1)

(Amended by Stats. 2002, Ch. 116 (S.B. 1752), Sec. 1)

(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 3)

(Amended by Stats. 2008, Ch. 164 (A.B. 3044), Sec. 5)

(Amended by Stats. 2009, Ch. 393 (A.B. 1406), Sec. 2)

[BOS Res. (Jan. 14, 2004), eff. Jan. 1, 2004]

§31530. County health officer

The county health officer 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)

§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 the 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)

§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)

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 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)

§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)

§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)

[BOS Res. (Oct. 1, 1945), eff. Nov. 1, 1945]

[BOS Res. (Jun. 18, 1957)]

§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)

§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 marshal shall become safety members on the first day of the calendar month following their appointment.

(Amended by Stats. 1986, Ch. 840, Sec. 1)

§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)

[BOS Res. 1986/125 (Mar. 11, 1986)]

§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)

§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. Forfeiture of position

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 that is forfeited pursuant to Section 1243.

(Added by Stats. 2005, Ch. 322 (A.B. 1044) , Sec. 3)

§31564. Withdrawal of district employees; petition; fund disposition; effective date

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.

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 withdrawals and in the same manner as the accumulated contributions would be refunded upon the termination of their employment by the district.

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 refunded to the district, or shall, upon the election of and designation by the governing body of the district, be transferred to another public retirement system.

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.

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)

§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 (A.B. 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 Education Code Section 873 may elect as authorized in Education Code Section 873.1 to remain a member of such system.

(Added by Stats. 1965, Ch. 717, Sec. 6, Effective June 18, 1965)

§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 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

(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, or 31522.7, 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.

(Amended by Stats. 1990, Ch. 419, Sec. 5, Effective July 26, 1990, as an urgency statute)

(Amended by Stats. 2002, Ch. 74 (A.B. 1992), Sec. 4, Effective June 27, 2002, as an urgency statute)

(Amended by Stats. 2007, Ch. 327 (A.B. 1124), Sec. 2)

(Amended by Stats. 2010, Ch. 663 (AB 609), Sec. 1)

§31580.3. (Repealed January 1, 2013) Expenditures for software, hardware, and computer technology

(Added by Stats. 2003, Ch. 95 (A.B. 374), Sec. 1, Repealed by its own terms January 1, 2007)

(Added by Stats. 2007, Ch. 327 (A.B. 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

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. Such 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.

(Added by Stats. 1976, Ch. 1420, Sec. 2)

[Pursuant to various MOUs]

§31581.2. Agreement to pay any portion of contributions normally required of members; resolution not to create vested rights

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.

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.

(Amended by Stats. 1989, Ch. 202, Sec. 1)

(Amended by Stats. 1997, Ch. 223, (A.B. 1598), Sec. 1)

§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, paid to all safety members of the retirement association covered by Article 7.5 (commencing with Section 31662) and the compensation earnable, as defined in Section 31461, paid to all other members of the retirement association, and the auditor shall thereupon transfer from the appropriation to the retirement fund the 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, paid to all safety members covered by Article 7.5 (commencing with Section 31662) and 8.85 percent of the compensation earnable, as defined in Section 31461, 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 within 30 days after the commencement of the county's fiscal year. If the advance is only a partial payment of the county's estimated annual contribution, transfers from the appropriation 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 estimated 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.

(c) (1) 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 within 30 days after the commencement of the district's fiscal year. 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 estimated 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.

(2) This subdivision shall only apply to a district that is part of a retirement system in a county of the seventh class, as described in Section 28020.

(Amended by Stats. 1979, Ch. 95, Sec. 2)

(Amended by Stats. 2000, Ch. 203, (A.B. 2841), Sec. 1)

(Amended by Stats. 2010, Ch. 158 (SB 1479), Sec. 2)

[Subdivisions (a) and (b) only]

§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 (S.B. 1852), Sec. 307)

§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 (A.B. 1021), Sec. 4.5)

§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 (A.B. 1021), Sec. 5)

§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 (A.B. 1021), Sec. 6)

(Amended by Stats. 1996, Ch. 493 (S.B. 792), Sec. 5)

[BOR Res. (Feb. 23, 1956)]

§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 1/2 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 (A.B. 847), Sec. 1)

(Amended by Stats. 1997, Ch. 43 (S.B. 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

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.

Where the board of supervisors has provided for the payment of all, or a portion, of the premium, 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 paragraph from the county advance reserves.

(Amended by Stats. 1980, Ch. 1116, Sec. 1, Effective September 26, 1980)

§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)

§31592.5 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 organization that is recognized by the board as representing the retired employees of the county or district 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.

(Added by Stats. 2003, Ch. 191 (S.B. 270), Sec. 1 as G.C. Section 31537.

Renumbered by Stats. 2004, Ch. 441 (A.B. 979), Sec. 2)

§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 be 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 be 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 (A.B. 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 (A.B. 1021), Sec. 7)

§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)

§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)

§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 (A.B. 1021), Sec. 8)

(Amended by Stats. 1999, Ch. 771 (A.B. 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 (A.B. 1021), Sec. 9)

(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 4)

§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 (A.B. 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 (S.B. 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 (A.B. 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 (A.B. 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 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)

§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)

§31621.7. Contra Costa County; 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
Age of entry into system	Percentage of contribution
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 (A.B. 616), Sec. 6)

§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 (A.B. 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	Percentage
	of contribution, Male	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
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
	Percentage	Percentage
Age of entry	of contribution,	of contribution,
into system	Male	Female
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 (All, San Bernardino)

(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.

(Amended by Stats. 1982, Ch. 454, Sec. 76)

(Amended by Stats. 1999, Ch. 27 (A.B. 266), Sec. 1)

§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)

§31627.6. 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 (A.B. 847), Sec. 3)

(Amended by Stats. 1995, Ch. 584 (A.B. 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 (A.B. 2766), Sec. 2)

(Amended by Stats. 2003, Ch. 62 (S.B. 600), Sec. 153)

§31630. Members' normal contributions, payment by and rights of district and certain counties, Contra Costa County (All, Contra Costa)

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 such 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.

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.

(Amended by Stats. 1980, Ch. 58, Sec. 2, Effective April 4, 1980)

(Amended by Stats. 1997, Ch. 223 (A.B. 1598), Sec. 2)

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)

§31639.25. 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)

§31639.3. 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 tables 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
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 (A.B. 3044), Sec. 6)

§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.

(Amended by Stats. 1970, Ch. 369, Sec. 2)

(Amended by Stats. 2010, Ch. 118 (AB 1658), Sec. 1)

[Subdivision (a) only]

§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)

§31639.85. Safety members' normal contributions; payment by county; right to contributions

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.

Any contributions paid by the board of supervisors on behalf of such safety members shall be as determined upon actuarial advice, and approved by the board of retirement.

(Added by Stats. 1975, Ch. 583, Sec. 2)

(Amended by Stats. 1997, Ch. 223, (A.B. 1598), Sec. 3)

§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)

[BOS Res. 1989/734 (Nov. 14, 1989), eff. Oct. 1, 1990]

[BOS Res. 1989/783 (Dec. 12, 1989)]

[BOS Res. 1991/20 (Jan. 8, 1991), eff. Jan. 1, 1991]

§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 (S.B. 2100), Sec. 1, Effective September 18, 2002 as an urgency statute)

(Amended by Stats. 2006, Ch. 633 (SB 524) Sec. 2)

[BOS Res. 2002/608 (Oct. 1, 2002),

- **eff. Jul. 1, 2002, for safety members of Contra Costa County or Contra Costa County Consolidated Fire Protection District**
- **eff. Jul. 1, 2005, for safety members of East Diablo Fire Dist.]**

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. Sec. 2.

The provisions of this act are declaratory of existing law.

(Added by Stats. 1955, Ch. 1756, Sec. 4)

(Amended by Stats. 2003, Ch. 830 (A.B. 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 (A.B. 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)

[Ord. 73-55 (Jul. 2, 1973), eff. Aug. 1, 1973]

§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)

[BOS Res. 1976/770]

[Ord. 76-63]

§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 (S.B. 1488), Sec. 3)

(Amended by Stats. 1997, Ch. 458 (S.B. 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)

[BOS 1970/349]

§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 (A.B. 2351), Sec. 4)

[BOS 1970/349]

§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)

§31641.3. 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)

[BOS 1970/349]

§31641.4. Public service credits; certification; prior employment credits of safety members

A member shall receive credit for employment in public service only for such service as he is not entitled to receive a pension or retirement allowance from such public agency. The service for which he elects to contribute and the fact that no pension or retirement allowance will accrue to such member by virtue of his employment in such public agency must be certified to by an officer of the public agency where he rendered such public service or must be established to the satisfaction of the board.

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 the time of war or national emergency, shall have his pension or retirement allowance for such service calculated on the same basis as the calculation of the retirement allowance such member would receive as a safety member under Section 31664.

A safety member who entered the service as a peace officer prior to the establishment of the safety membership provisions in his county shall be considered a safety member from his initial hiring date, for the purposes of this section, notwithstanding any other provision of law.

(Amended by Stats. 1975, Ch. 1171, Sec. 1)

[BOS 1970/349]

§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 he 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 him 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 20023.1 on making the redeposit.

(Amended by Stats. 1971, Ch. 504, Sec. 1)

§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)

§31641.51. “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)

§31641.6. 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)

[BOS Res. (Sept. 22, 1959), eff. Oct. 1, 1959]

§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)

[BOS 1970/349]

§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)

[BOS 1970/349]

§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)

[BOS Res. 1970/349 (Jun. 16, 1970), eff. Jul. 1, 1970]

§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)

§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 member who returns to active service following an uncompensated leave of absence on account of illness may receive service credit for the period of such absence upon the payment of the contributions that the member would have paid during such period, together with the interest that such 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 may not be received for any period of such absence in excess of 12 consecutive months.

(Added by stats. 1977, Ch. 975, 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)

§31648.4. 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)

§31649. Service with armed forces; election to discontinue contributions; re-entering county service

(a) Any member who resigns to enter and does enter the armed forces of the United States on a voluntary or involuntary basis, and within 90 days after the termination of that service under honorable conditions, re-enters county service, or

(b) Any member who obtains a leave of absence to enter and does enter the armed forces of the United States on a voluntary or involuntary basis, and within one year after the termination under honorable conditions of leave of absence re-enters county service, if he or she has not contributed to the retirement fund the total percentage of his or her compensation earnable due pursuant to Section 31461 under this chapter for the entire period during which he or she was out of county service and in military service, may, not more than 90 days after his or her re-entrance into county service, file with the board his or her election that no further contributions be deducted from his or her compensation except contributions due because of current service.

(c) A member who re-enters county service under either (a) or (b) above may be allowed up to five years credit for vesting in the system.

(Amended by Stats. 1957, Ch. 479, Sec. 1)

(Amended by Stats. 1996, Ch. 680 (S.B. 1877), Sec. 12)

§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 (S.B. 1877), Sec. 13)

§31649.5. Service with armed forces; credit for service and prior service; contributions

(a) 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 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 payment.

(b) This section shall not be operative in any county until the board of supervisors so orders.

(Amended by Stats. 1975, Ch. 594, Sec. 1)

(Amended by Stats. 1996, Ch. 680, Sec. 14)

[BOS Res. 1968/208 (Apr. 2, 1968)]

§31650. 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)

§31651. 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 (S.B. 1508), Sec. 1. Effective January 1, 1993)

§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)

§31653. Contributions by governing board for member reentering public service after absence in military service; credit for military service time

Notwithstanding the provisions of 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 of this code, amounts equal to the contributions which have been made by the member and his employer to the system on the basis of his compensation earnable at the commencement of his absence, if he 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 such contributions refunded or credited to his account.

(b) Any such member who withdraws or has withdrawn his accumulated contributions during his military service and who does not or did not redeposit the amount withdrawn upon his 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 he was absent on military service, the same as if he had not withdrawn his accumulated contributions, and his rate for future contributions shall be based upon his age at the commencement of his absence on 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 his accumulated contributions personally made by him.

(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.

(Amended by Stats. 1969, Ch. 978, Sec. 2)

§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 his 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)

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

Retirement of a safety member in a county subject to the provisions of Section 31676.1 who has met the requirements for age and service shall be made by the board pursuant to this article.

(Added by Stats. 1951, Ch. 1098, Sec. 24)

§31663.25. Application for retirement

Except as provided in Section 31663.26, any safety member who has reached the applicable compulsory age of retirement, if any, or any safety member who has completed 10 years of continuous service and who has reached the age of 50, or any 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 he or she desires his or her retirement to become effective which shall be not more than 60 days after the date of filing the application.

(Amended by Stats. 1986, Ch. 840, Sec. 10)

(Amended by Stats. 2008, Ch. 164 (A.B. 3044), Sec. 7)

§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
Age at retirement	Fraction
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

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 (A.B. 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
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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	0.8586
Age At Retirement	Fraction
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 (A.B. 1937), Sec. 2)

[BOS Res. 2002/608 (Oct. 1, 2002), eff. Jul. 1, 2002]

§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 (A.B. 3044), Sec. 9)

§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

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 final compensation.

(Added by Stats. 1965, Ch. 738, Sec. 1)

§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 (A.B. 3044), Sec. 10)

Article 8 - Retirement for Service

(Article 8 added by Stats. 1947, Ch. 424, Sec. 1)

§31670. Retirement for age and service

Retirement of a member who has met the requirements for age and service shall be made by the board pursuant to this article.

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

§31671. Benefits computation; amount of compensation considered in determination

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, 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.

(Added by Stats. 1995, Ch. 829 (S.B. 791), Sec. 12)

§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)

[BOS Res. 1980/782 (Jul. 8, 1980)]

§31672. Voluntary retirement; application; conditions

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 he or she desires his or her retirement to become effective not earlier than the date the application is filed with the board and not more than 60 days after the date of filing the application. 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.

(Amended by Stats. 1972, Ch. 1126, Sec. 3)

(Amended by Stats. 2006, Ch. 846 (A.B. 2863), Sec. 3, effective September 30, 2006)

§31672.1. Voluntary retirement; application; age 55, 10 years of service, 5 full years of credit

Any employee who has reached the age of 55 years, has held a position in the county service for 10 years, and on the date of his retirement is employed in a temporary, seasonal, intermittent, or part-time position in which he 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 he desires his retirement to become effective which shall not be more than 60 days after the date of filing the application. The age of 55 in the preceding sentence may be reduced to age 50 in any county by resolution of the board of supervisors if such reduction has also been made under Section 31672.

(Added by Stats. 1976, Ch. 548, 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)

§31676.1. 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
Age at retirement	Fraction
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
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
Age at retirement	Fraction
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)

§31676.11. 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
Age at retirement	Fraction
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
60	1.3093
60 1/4	1.3221
60 1/2	1.3350
Age at retirement	Fraction
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

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)

[BOS Res. 1969/406 (Jun. 24, 1969), eff. Jul. 1, 1969]

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
Age at retirement	Fraction
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
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
Age at retirement	Fraction
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 (A.B. 448), Sec. 3)

[BOS Res. 2002/608 (Oct. 1, 2002), eff. Jan. 1, 2003]

§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
Age at retirement	Fraction
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
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 (A.B. 616), Sec. 7)

(Amended by Stats. 2002, Ch. 1152 (A.B. 3034), Sec. 116)

§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)

§31676.56. 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)

§31676.6. 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)

§31676.95. 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)

§31678.2. Application of retirement benefits; service credit; 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).

(Added by Stats. 2000, Ch. 495 (S.B. 1696), Sec. 1)

§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 (S.B. 777), Sec. 6)

§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 member retired for service or disability shall not be paid for any service rendered by him to the county or district after the date of his retirement, except (a) As specifically provided in this chapter. (b) Pursuant to Section 31733. (c)

The county or district may pay and such retired member may receive: (1) rewards for ideas or suggestions made by such retired member for the improvement of county or district activities; (2) compensation for his services on the board. (d) If the member is subsequently elected to county office after retirement.

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.

(Amended by Stats. 1971, Ch. 1322, Sec. 1)

§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

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 such service.

(Amended by Stats. 1974, Ch. 554, Sec. 2, Effective August 27, 1974)

§31680.2. County or district employment of retired person in position requiring special skills or knowledge; Receiving unemployment insurance compensation; Applicability

(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 him or her, for 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 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.

(Amended by Stats. 1989, Ch. 298, Sec.1)

(Amended by Stats. 2007, Ch. 57 (A.B. 775), Sec.1)

§31680.3. Contra Costa County; post-retirement service in positions requiring special skills or knowledge; Receiving unemployment insurance compensation; Applicability (Contra Costa)

(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 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.

(Amended by Stats. 1991, Ch. 153, Sec. 1, Effective July 23, 1991)

(Amended by Stats. 2007, Ch. 57 (A.B. 775), Sec.2)

§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)

[BOS Res. 1991/19 (Jan. 8, 1991)]

§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)

[BOS Res. 1991/19 (Jan. 8, 1991)]

§31680.6. Extension of time for which retired persons may be employed in special skill or knowledge positions; Receiving unemployment insurance compensation; Applicability

(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, to 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.

(Amended by Stats. 1992, Ch. 427, Sec. 62)

(Amended by Stats. 2007, Ch. 57 (A.B. 775), Sec. 3)

[BOS Res. 1991/763 (Nov. 19, 1991)]

§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)

[BOS Res. (Dec. 24, 1957), eff. Jan. 1, 1958]

§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)

[BOS Res. (Dec. 15, 1959), eff. Jan. 1, 1960]

§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 an 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)

[Ord. 1573 (Oct. 10, 1961), eff. Nov. 10, 1961]

§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, 195	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. Cost-of-living payments; adoption of section

(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 31510¹) 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)

¹Renumbered: see, now, Section 31610.

²Renumbered: see, now, Section 31618.

§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 (S.B. 795), Sec. 1)

Article 8.4 - Community Property

(Article 8.4 added by Stats. 1994, Ch. 670 (S.B. 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)

[BOS Res. 1995/209 (May 9, 1995)]

§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 (A.B. 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)

[BOS Res. 1995/209 (May 9, 1995)]

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 (A.B. 847), Sec. 4)

(Amended by Stats. 2000, Ch. 966 (A.B. 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 (A.B. 979), Sec. 3)

§31705. Calculation of benefit

The retirement allowance shall be calculated according to the provisions of this chapter as they exist at the time of the commencement of the retirement allowance.

(Added by Stats. 1947, Ch. 388, Sec. 19)

§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 has attained age 70 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 a deferred retirement allowance by April 1 of the year following the year in which the member attains age 70 1/2. The notification shall be made at the time the deferred member attains age 70 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 in which the member attains age 70 1/2, the retirement system shall commence paying an unmodified allowance to the member. If the member cannot be located by April 1 of the year following the year in which the member attains age 70 1/2, 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 (A.B. 847), Sec. 5)

(Amended by Stats. 1997, Ch. 4 (S.B. 419), Sec. 2)

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 (A.B. 2023), Sec. 4)

§31720.5. Heart trouble; presumption; conditions

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, such heart trouble so developing or manifesting itself in such cases shall be presumed to arise out of and in the course of employment. Such heart trouble so developing or manifesting itself in such cases shall in no case be attributed to any disease existing prior to such development or manifestation.

As used in this section, "fireman member" includes a member engaged in active fire suppression who is not classified as a safety member.

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. 1974, Ch. 9, Sec. 1)

[BOS Res. 1982/250 (Feb. 23, 1982), eff. Feb 24, 1982]

§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 (S.B. 558), Sec. 1)

(Amended by Stats. 2000, Ch.317 (A.B. 2176), Sec. 2)

§31720.7. Blood-borne infectious disease; methicillin-resistant Staphylococcus aureus skin infection ; 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 (A.B. 1817), Sec. 1)

(Amended by Stats. 2001, Ch. 833 (A.B. 196), Sec. 1)

(Amended by Stats. 2008, Ch. 684 (A.B. 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 (A.B. 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)

[Subdivision (a) only]

[BOS Res. 1982/250, eff. Feb. 24, 1982]

§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 (A.B. 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)

[Ord. 67-37 (1967)]

§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 (A.B. 2982), Sec. 1, Effective August 30, 2004)

§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 (A.B. 2982), Sec. 2, Effective August 30, 2004)

(Amended by Stats. 2005, Ch. 22 (S.B. 1108), Sec. 90)

§31725.7. Service retirement allowance pending determination of entitlement

(a) 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 his or her entitlement to disability retirement. If he or she is found to be eligible for disability retirement, appropriate adjustments shall be made in his or her retirement allowance retroactive to the effective date of his or her disability retirement as provided in Section 31724.

(b) 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 he or she shall not be entitled to return to his or her job as provided in Section 31725.

(c) 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.

(d) Notwithstanding subdivision (c), 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 (S.B. 792), Sec. 6)

(Amended by Stats. 1998, Ch. 132 (S.B. 2137), Sec. 2)

§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)

§31726. Nonservice-connected disability; benefits at and under age 65

Upon retirement for nonservice-connected disability a member who has attained age 65 shall receive his or her service retirement allowance.

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 State 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:

(a) The sum to which he or she would be entitled as service retirement.

(b) A sum which shall consist of any of the following:

(1) An annuity which is the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

(2) If, in the opinion of the board, his or her disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his or her part, a disability retirement pension purchased by contributions of the county or district.

(3) If, in the opinion of the board, his or her 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 paragraph 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)

§31726.5. Safety member; nonservice-connected disability; benefits at age 55; benefits under age 55

Upon retirement for nonservice-connected disability a safety member who has attained age 55 shall receive his or her service retirement allowance. 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:

- (a) The sum to which he or she would be entitled to as service retirement; or
- (b) A sum which shall consist of:

(1) An annuity which is the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

(2) If, in the opinion of the board, his or her disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his or her part, a disability retirement pension purchased by contributions of the county or district.

(3) If, in the opinion of the board, his or her 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.

Paragraph (3) 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)

§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)

§31727.2. 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)

§31727.4. 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)

§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.

It shall pay for such services and advice such compensation as it deems reasonable.

(Amended by Stats. 1976, Ch. 1318, Sec. 1)

§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)

§31739.3. 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)

[Ord. 1573 (Oct. 10, 1961), eff. Nov. 10, 1961]

§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
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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)

§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-Milius-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 (S.B. 2100), Sec. 2, Effective September 18, 2002 as an urgency statute)

[BOS Res. 1980/565 (May 27, 1980), eff. Jul. 31, 1980]

[BOS Res. 1980/566 (May 27, 1980), eff. Jul. 31, 1980]

[BOS Res. 1985/10 (Jan. 8, 1985)]

[BOS Res. 2002/608 (Oct. 1, 2002)]

§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
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
Age at	Percentages	
retirement	(A)	(B)
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 an 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 (A.B. 180), Sec. 1)

(Amended by Stats. 2004, Ch. 183 (A.B. 3082), Sec. 169)

(Amended by Stats. 2005, Ch. 22 (S.B. 1108), Sec. 91)

[Ord. 98-34 (Aug. 11, 1998), eff. Oct. 1, 1998]

§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 (S.B. 2100), Sec. 3, Effective September 18, 2002 as an urgency statute)

[BOS Res. 2002/608 (Oct. 1, 2002)]

§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).

(c) 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.

(d) 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.

(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 (S.B. 2100), Sec. 4, Effective September 18, 2002 as an urgency statute)

[BOS Res. 2002/608 (Oct. 1, 2002)]

§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 (S.B. 2100), Sec. 5, Effective September 18, 2002 as an urgency statute)

[BOS Res. 2002/608 (Oct. 1, 2002)]

Article 11 - Optional Retirement Allowances

(Article 11 added by Stats. 1947, Ch. 424, Sec. 1)

§31760. Election of actuarial equivalent of retirement allowance

Until the first payment of any retirement allowance is made, a member or retired member, in lieu of the retirement allowance for his life alone, may elect to have the actuarial equivalent of his 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.

(Amended by Stats. 1955, Ch. 372, Sec. 10)

§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 his or her retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued throughout life to his or her surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if she or he 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 she or he lived, shall be paid to his or her 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 she or he was married to the member at least one year prior to the date of his or her 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 through the age of 21 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 him or her during his or her lifetime did not equal or exceed his or her accumulated normal contributions, his or her 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.

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 (A.B. 847), Sec. 6)

(Amended by Stats. 1998, Ch. 132 (S.B. 2137), Sec. 3)

§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)

§31760.2. 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 his or her retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued to his or her surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if she or he 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 he or she lived, shall be paid to his or her 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 he or she 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 through the age of 21 years 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 his or her lifetime did not equal or exceed his or her accumulated normal contributions, the retired 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.

(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 (S.B. 670), Sec. 1)

(Amended by Stats. 2002, Ch. 875 (A.B. 2060), Sec. 1)

[BOR Res. (Apr. 11, 2000), eff. Jan 1, 2000]

§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 (S.B. 973), Sec. 25)

§31761. Optional settlement 1

Optional settlement 1 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and, if he or she dies before he or she receives in annuity payments the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her estate or to the person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board.

(Amended by Stats. 1991, Ch. 982, Sec. 2)

§31762. Optional settlement 2

Optional settlement 2 consists of the right to elect in writing to have a retirement allowance paid to him or her until his or her death, and thereafter to the person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

(Amended by Stats. 1991, Ch. 982, Sec. 3)

(Amended by Stats. 2004, Ch. 183 (A.B. 3082), Sec. 170)

§31763. Optional settlement 3

Optional settlement 3 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death, and thereafter to have one-half of his or her retirement allowance paid to the person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time or his or her retirement.

(Amended by Stats. 1991, Ch. 982, Sec. 4)

§31764. Optional settlement 4

Optional settlement 4 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her 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 persons, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her 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)

§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 his spouse who survives him 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 date of his 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, she or he 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 of 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 his 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 such children through the age of 21 if such 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)

§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 his 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 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, she or he 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 his 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 such children through the age of 21 if such 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)

§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)

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. A child eligible to receive a survivor benefit under Section 31760.1, 31781.1, 31786, or 31787

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.

§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 by the deceased during the 12 months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of such annual compensation.

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

§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 he or she had retired by reason of non-service-connected disability as of the date of his or her 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 his or her 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 through the age of 21 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 his or her death.

(Added by Stats. 1957, Ch. 1161, Sec. 5)

(Amended by Stats. 1967, Ch. 1622, Sec. 4)

(Amended by Stats. 2003, Ch. 840 (A.B. 933), Sec. 2)

§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 his or her death has 10 or more years of service to his or her 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 he or she lived, and at that time receive the retirement allowance provided for in Section 31765 or 31765.1 or 31765.11, whichever is applicable.

If, at the death of such spouse, he or she 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 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 such surviving children as, in his or her 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 such children through the age of 21 years 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 (S.B. 1108))

§31781.3. Combined benefit; 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 following combined benefits:

(a) An amount, provided from contributions by the county or district, equal to one-twelfth of the annual compensation earnable by the deceased during the 12 months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of such annual compensation, plus

(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)

§31781.31. Contra Costa County; combined benefit; election by surviving spouse (Contra Costa)

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 following combined benefit:

(a) An amount, provided from contributions by the county or district, equal to one-twelfth of the annual compensation earnable by the deceased during the 12 months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of such annual compensation, plus

(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)

§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 (S.B. 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 nonservice-connected disability from a retirement system established in a county subject to the provisions of Section 31676.1 or 31695.1, 60 percent of his or her 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 his or her surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if she or he 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 she or he lived, shall be paid to his or her 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 she or he was married to the safety member at least one year prior to the date of his or her 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 through the age of 21 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 (S.B. 2137), Sec. 5)

§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 his or her 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 his or her surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if she or he 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 he or she lived, shall be paid to his or her 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 he or she 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 through the age of 21 years 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 (S.B. 670), Sec. 2)

(Amended by Stats. 2002, Ch. 875 (A.B. 2060), Sec. 2)

**[BOR Minutes (Apr. 11, 2000); eff. as to retiree deaths occurring after January 1, 2000]
[BOR Res (August. 11, 2010); eff. as to retiree deaths occurring after January 1, 2000]**

§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, his or her retirement allowance as it was at his or her 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 his or her surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if she or he 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 she or he lived, shall be paid to his or her 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 she or he was married to the member prior to the date of his or her retirement.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children through the age of 21 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 (S.B. 2137), Sec. 7)

§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, his or her retirement allowance as it was at his or her

death if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued to his or her surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if he or she 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 he or she lived, shall be paid to his or her 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 he or she 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 through the age of 21 years 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 (S.B. 670), Sec. 3)

(Amended by Stats. 2002, Ch. 875 (A.B. 2060), Sec. 3)

**[BOR Minutes (Apr. 11, 2000); eff. as to retiree deaths occurring after January 1, 2000]
[BOR Res (August. 11, 2010); eff. as to retiree deaths occurring after January 1, 2000]**

§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 he or she had retired by reason of a service connected disability as of the date of his or her 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 his or her 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 through the age of 21 years 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 his or her death.

(Added by Stats. 2000, Ch. 497 (S.B. 2008), Sec. 3)

(Amended by Stats. 2003, Ch. 840 (A.B. 933), Sec. 3)

Section 4 of Stats. 2003, Ch. 840 (A.B. 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.

§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, twenty-five percent (25%) of the allowance provided in Section 31787.

(2) For two children, forty percent (40%) of the allowance provided in Section 31787.

(3) For three or more children, fifty percent (50%) 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 his or her 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 him or her 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 through the age of 21 years 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 (S.B. 2008), Sec. 4)

(Amended by Stats. 2002, Ch. 1152 (A.B. 2023), Sec. 13)

§31787.6. Special death benefit; spouse of safety member; application of section

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 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 (S.B. 600), Sec. 154)

§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 31510¹) 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)

¹Renumbered. See Section 31610 et seq.

²Renumbered Section 31618.

§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)

§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 (A.B. 407), Sec. 2)

(Amended by Stats. 2004, Ch. 441 (A.B. 979), Sec. 7)

[BOS Res. 1999/348 (Jul. 20, 1999)]

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

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 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, Chapter 2, Part 4, 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.

(Added by Stats. 1957, Ch. 663, Sec. 1)

[BOS Res. 1961/449 (Nov. 21, 1961)]

[BOS Res. 1962/713 (Mar. 20, 1962)]

§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 31671.01¹, upon qualifying for such federal benefits.

(Amended by Stats. 1967, Ch. 1155, Sec. 4)

¹Both 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 31809¹ of this code, whichever is applicable, to a person who was a member on the effective 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)

¹Repealed

§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 (A.B. 3044), Sec. 11)

§31808.7. Retirement allowance in counties or districts subject to section 31676.12; computation

In any county or district, subject of 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)

§31808.9. 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 (A.B. 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)

§31812.1. Members' contributions; counties or districts subject to sections 31676.12 and 31808.7

Each member subject of 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 from 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 31809¹, whichever is applicable.

(Amended by Stats. 1969, Ch. 767, Sec. 5, Effective August 14, 1969)

¹Repealed

§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 (A.B. 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 (A.B. 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)

§31831.3. 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 (A.B. 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 (A.B. 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 (A.B. 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 (A.B. 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 (A.B. 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 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 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 effecting deferred retirement shall not be applicable to any members who left county or district service prior to October 1, 1949, and subsequently redeposited.

(2) 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 (A.B. 2331), Sec. 13)

(Amended by Stats. 2001, Ch. 433 (A.B. 1099), Sec. 3)

§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)

§31835.1. 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 (A.B. 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 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 is presently receiving a retirement allowance from another retirement system.

(Amended by Stats. 1968, Ch. 1046, Sec. 10)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 16)

§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 (A.B. 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 (A.B. 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 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 by the deceased during the 12 months immediately preceding his death.

(b) When death is the result of disease or injury arising out of and in the course of his 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)

§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 (A.B. 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)

§31840.7. 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)

[BOS Res. 1991/17 (Jan. 8, 1991)]

§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 (S.B. 610), Sec. 4)

(Amended by Stats. 2001, Ch. 433 (A.B. 1099), Sec. 4)

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)

§31870.1. 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)

§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

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. 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.

(Amended by Stats. 1976, Ch. 1436, Sec. 27.1)

§31873.1. Contra Costa County; equal apportionment of contributions; percentages

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.

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
22	1.16
23	1.16
24	1.16
25	1.17
26	1.17
27	1.18
28	1.18
29	1.19
Age of entry into system	Percentage of contribution
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)

§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)

[Ord. 1788. Eff. Apr. 1, 1964]

§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.

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 (A.B. 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 Benefit Program” by Stats. 1990, Ch. 797 (S.B. 2327), Sec. 3, effective September 13, 1990, was amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 7, to read as now appearing)

§31899. Purpose

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.

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.

(Added by Stats. 1990, Ch. 797 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 8)

[BOS Res. 2006/671 (Oct. 24, 2006)]

[BOD of San Ramon Valley Fire Protection Dist. Res. 2005-02 (Mar. 23, 2005)]

[BOD of Moraga-Orinda Fire Protection Dist. Res. 2010-06 (May 19, 2010)]

§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 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Amended by Stats. 2003, Ch. 520 (A.B. 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 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Amended by Stats. 2003, Ch. 520 (A.B. 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 (S.B. 2327), Sec. 2.5, Effective September 13, 1990)

(Renumbered Section 31899.3 and amended by Stats. 2003, Ch. 520 (A.B. 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 (A.B. 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 (A.B. 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 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.6 and amended by Stats. 2003, Ch. 520 (A.B. 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 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.7 and amended by Stats. 2003, Ch. 520 (A.B. 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 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.8 and amended by Stats. 2003, Ch. 520 (A.B. 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 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.9 and amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 19)

§31899.10. (Renumbered Section 31899.9 and amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 19)